

## Closed Caption Log, Council Meeting, 11/05/09

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Good morning, if I could ve your attention I'll get started. I'm austin mayor lee leffingwell, I will begin this morning with the invocation from brother george williams the pastor of east side church of christ, everyone please rise.

Let us bow in prayer. Our heavenly father, we thank you so very much for blessing us with life, with health and with strength and we thank for you the freedom that you have given unto us in this country. Father, we thank you so very much for the beautiful weather that you have blessed us with today. And for the recent rain that you have sent unto this drought stricken area. Father, we pray for more rain. And, lord, we pray now for those who have come today. Our city council in particular. We pray for, father -- father, for guidance, for wisdom, and we thank you for these men and women who have dedicated their lives to be servants, because we know in your word you tell us that the greatest among us shall be servants to all. Father, we ask that you would give them wisdom as they make decisions that will impact the lives of others. We know that leadership is never, never easy. Making decisions that will impact the lives of others is never easy. But we pray, father, that they would do it with wisdom, discernment, good judgment. And that their hearts and their motives will always be pure. Father, we ask that you guide them today, give them wisdom from on high. We thank you for the freedom to call upon your name, it is in the name of jesus, our lord and our savior, that we do pray, amen.

Thank you, brother. Please be seated.

Mayor Leffingwell: A quorum of the council is present. So our meeting is called to on THURSDAY, NOVEMBER 5th, 2009. We are meeting in the council chambers, austin city hall, 301 west second street, austin, texas. I'll read the changes and corrections to today's agenda. 12, add that it is recommended by the environmental board. 25 will be postponed until november 19th. 40, add the additional co-sponsor, councilmember chris riley. And item 43 is withdrawn from the agenda. Our time certain items today: 10:30 a.m. Briefings, first, we have a citizens water conservation implementation task force presentation. And, second, we have a briefing regarding austin energy's implementation of federal stimulus funding for low income weatherization. 00, we will have our general citizens communication. 00, discussion and possible action on bond sales. At 2:00 zoning matters. 00, we will convene the meeting of the austin housing finance corporation board of directors. 30, we will have live music and proclamations and the music this evening will be a featured singer from the opera, which

opens at the lyric opera across the river at the long center, la boehm. I would parenthetically add that I will be in that opera. I have a leading role. 00 we will have our public hearings. The consent agenda, is items 1 through 45 and I will read 37, which is our board and commissions appointments. First, to the commission on immigrant affairs, syad ramen to councilmember cole. To the community development commission, ruben montoya, a representative of the east austin neighborhood by councilmember spelman. To the commission for women, rose specter, by councilmember riley. Early childhood council, deborah keith thompson, by councilmember riley. and small business enterprise procurement program advisory committee, deidre moss by councilmember riley. To the mexican american cultural center advisory board, rosanna barrios, councilmember cole. To the parks and recreation board, jeff francell, by councilmember spelman. And to the urban transportation board, urban transportation commission, excuse me, councilmember riley. And -- to the travis county appraisal district board of directors, that -- the appointments include a resolution appointing blanca zamora garcia and christopher lands as joint appointee with the austin independent school district to the travis central appraisal district board of directors. And if I could get some help, I have the name eileen shaber, but it is not on the sheet as to who she is -- [indiscernible] -- okay, that is -- eileen shabert is appointed by councilmember riley. Okay. The following individuals are recommended by the travis county commissioners court for appointment to the comprehensive plan citizens advisory task force. They are jack gulahorn, hilgers, mark lind and ira yates. So those are the board and commission and task force appointments. 17 is pulled by myself for a very brief presentation by the staff. 25 will be pulled by myself. 20, 26 and number 40 are pulled because of citizens who have signed up to speak on those items. And without objection, council, councilmember spelman would like to 36 and add that to the consent agenda and what would be the date, councilmember?

Spelman: Mayor, actually, I would like to pull item 36 for a staff briefing. I would also like to pull item 19 for briefing.

Mayor Leffingwell: Okay. 19 and 36 are pulled by councilmember spelman. So -- so that is the consent agenda today. Are there any questions about it or any additional items to be pulled from the agenda? We have one speaker who signed up to speak on a number of items. If I can get my -- my speaker refreshed, which is -- has been off the air for a couple of -- there we go. Maria ager is signed up to speak on items 9, 10, 11, if there are questions. And item 3. Does anyone have any questions on those items for marie ager? Any comments on the consent agenda? From council? I will entertain a motion to approve the consent agenda. Councilmember riley moves approval. Councilmember cole seconds. Any further discussion? All in favor say aye.

Aye.

Aye.

Mayor Leffingwell: That is approved on a vote of 7-0. I will now call up item no. 17, Which is the selection of the consultant for the strategic mobility plan. I pulled that item and i would ask staff to come up and just -- just go through the rationale and their process for their recommendation for that

consultant.

Good morning, Mike Trimble, director for contract and land management. And with respect to the staff recommendation, I believe you received a memo where it talked a little bit about the feedback from the panel and what led to the faith one faith two results and recommendations. The firm, Comby Horn was the recommended firm. The staff recommendation is based on phase 1 and 2 only. That's phase 1 is the review of the submittal that's are put in by the consultants that participated and then phase 2 is the interviews that the evaluation panel did with the firms. And so some of the results from that is Kimbly Horn ranked first in the scoring of the submittals that were put in by the consultants. They also ranked the highest for the evaluation panel interviews. Some of the notes from the panel include exceptional experience and qualifications outline understand the statement of qualification that's were reviewed that were submitted, that's what we call the submittal their statement of qualifications, from the evaluation panel interviews, they provided very great detail and thorough responses and they answered staff's questions very thoroughly and that led to some of their higher markings for the staff evaluation through the interviews. Some other things that came out. Key things that were noted. Success with comparable projects, the firm's detailed and supportive responses, team's approach for incorporating public input for this project and some of their past experience in doing that. And then also, the subconsultant team. They put together a very qualified subconsultant team that was described in their submittals also provided as part of their evaluation panel interviews.

Mayor Leffingwell: Thank you, did you have anything to add, Mr. Spiller.

Yes, my name is Robert Spiller, director of transportation. I just want to reiterate that the process resulted in providing you all with two firms that we think are highly qualified. We are very happy with the ability for us to give you the choice between two firms that are both highly qualified to do this work. The scoring resulted in the outcome that Mike presented to you and that's all that I can add.

Mayor Leffingwell: Thank you.

Uh-huh.

Mayor Leffingwell: Anything further? I will entertain a motion on item no. 17.

Move approval.

Mayor Leffingwell: Councilmember Cole moves approval of item no. 17. Was that a second by councilmember Morrison? Any further discussion? All in favor say aye.

Aye.

Passes on a vote of 7-0. A point of clarification in reading the consent agenda, it appears that I made a minor mistake. [Laughter] 25 was read as a postponed item until NOVEMBER 19th. And I also read into the 25 was pulled from the consent agenda. So as a point of 25 was part of the consent agenda,

postponed until NOVEMBER 19th.

Spelman: Mayor?

Spelman: My questions on number 19 have been answered I will be happy to have that on the consent agenda.

Mayor Leffingwell: We have already approved the consent agenda, we will take up item no. 19 next.

Spelman: I move approval of item 19.

Mayor Leffingwell: Councilmember spelman moves 19, is there a second? Seconded by the mayor pro tem. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Item 19 is pulled -- approved on a vote of 7-0. .. item no. 20. 20 was pulled because two people have signed up to speak on that item. And the first is gus pena. city manager, gus pena. 20, this item has to do with community development block grant funding for youth and families. One of the things that i wanted to educate y'all in the community out there is that as former counselor, i still have my license, we deal with the children in the austin independent school district in the community that dropped out. There's a lot of mental health issues that we are not aware of, bipolar afflictions, anger management, it's given another title, but I still call it anger management. What this funding will help to do is have counselors counsel and treat various children, students, and the families -- it has always been our contention, you treat the whole family, not just a part of the family. The whole family structure. And you are seeing a lot more kids, a lot more people that are in need of counseling, training, but they don't know where to go, they don't have any money. It's very important to educate these people out there and maybe -- maybe a good source of resources, dave evans, which used to be known as the austin travis county mental health, mental retardation center, it has a new name. I want to thank the city. But we have a serious problem out there mayor and councilmembers. A lot of students if they don't grasp the subject matter in high school, get frustrated, angry, they need counseling, not just them but the mom and dads or even grandmas taking care of the family. I wanted to thank you all very much. I wanted it to be read into the record that the city has done their part in helping to alleviate a lot of the problems out there with thekids wnger management, et cetera, thank you all very much. Thank you for allowing me to speak.

Mayor Leffingwell: Thank you, mr. pena. The next speaker also in favor is terry lane. Terry lane is not here. So those are all of the speakers that we have signed up on item no. 20. I will entertain a motion. Councilmember morrison moves approval. There is a second? Councilmember spelman seconds. Any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Passes on a vote of 7-0. The next item is item no 26. Also pulled because of citizens signed up wishing to speak on that item. And the first speaker is joseph jaques. Who is against item no. 26.

Good morning, mayor, city council. I'm signed up to speak out today because the ordinance, amendment as written will basically amount to a ban on music for boats in the city of austin. The criteria of no audible noise at 100 feet when applied to a boat would have the impact at having music played inside the boat at a very low level. In fact, you know, I did a little experiment in my front yard this morning and I played a song on my i phone here at basically half volume. And this is still actually -- actually a class c misdemeanor under this ordinance. I can hear this from 100 feet away. [Playing music] the other problems with this ordinance is that the definitions for sound equipment don't really exclude any type of musical instrument. They would include acoustic guitars, flutes, things like that. I understand this ordinance is modeled after, excuse me, the -- the vehicle ordinance. Well, there's a -- there's provisions in the current code to allow for a permit for vehicle [indiscernible] sound under section 92-13. However, there's no provisions allowed for water craft in this amendment. With regards to what would be a -- a reasonable amount of volume, we could look to, excuse me, section 9-2-5, which applies to residential properties. There you are allowed to have a 75-decibel level at your property line up until so while this ordinance is intended to protect the quality of life for people who reside on the waterfront, it's possible for them to hear louder noise from their next door neighbors than it would be from people on boats operating on the lake. Lastly, I would say that -- that this ordinance doesn't really address the primary source of noise from watercraft, which is exhaust noise. There's, you know, many other noise ordinances and other municipalities that basically their noise ordinance pertained to watercraft address exhaust noise, not noise coming from musical instruments. So I believe that this is basically a bad amendment and that -- that a -- that reasonable modifications can be made to it. Thank you for your time.

Mayor Leffingwell: Thank you. Next speaker is shannon [indiscernible] also against item no. 26. mayor, councilmembers, thank you for hearing me. My name is shannon shadick, the owner of capital cruises down here on town lake. I am here to oppose this proposed amendment just -- for similar reasons as mr. Jaques just mentioned. We do several different types of things on the lake that I believe are unobtrusive, have reasonable levels of sounds on all of our boats. These include providing tourist -- a tourist attraction for both visitors and the community as well as company corporate events, parties, weddings, all of those types of things. The way this is worded, I -- I believe the intent is -- the intent of the law is not achieved. I believe the intent originally was to address problems on lake austin that involved the bee creek and bull creek areas of residents living on the lake. But this would encompass all of the lakes and all different areas that perhaps have activities that do not present invasive noise to residents. Basically, an example would be -- as a -- for instance, any time that you have live music out here on the front, I can hear it from our dock across the lake. That's definitely more than 100 feet. However, if we were to have an event on the lake and someone was on the hike and bike trail and they could hear any level of audible noise from one of my vessels or for instance a rowing vessel with a bull horn out during the day, they could be ticketed for this offense. I believe this should be at least postponed to look at the wording. I understand the intent and I agree with the intent that -- that there is a need to address these situations with residents on the lake. But I believe that it should be worded in

such a way that it directly addresses that and doesn't encompass things that are non-invasive to the general public. Thank you for your time.

Mayor Leffingwell: Thank you. Mayor pro tem?

Martinez: Could we get the commander to come down and speak a little bit on this issue? Or david? Either one. Welcome to city hall, commander.

Good morning.

I just wanted to ask you, how do we intend to enforce this and what is the impetus behind this? I did a tour with you for a few hours out on the lake and we talked about some of these issues. Just wanted to see what kind of discussions took place as to making this proposal.

Okay. Well, primarily what drove this are the complaints that we have been getting and the -- in the bee creek cove and the things is that the complaints that we are having on occasions we'll have a lot of boats that are anchor and start playing music very loud. The residents along the creek area there will -- the music is so loud that it pervades into the house and they have no escape from it. The lake patrol unit has attempted to go down and get voluntary compliance and up to this point it has been in effect -- they will turn the music back up. What we were looking at is a change in the city ordinance to give a little bit more teeth to allow us to at least enforce a -- a noise ordinance for watercraft and that way we are hoping that voluntary compliance will work. Because that's our intent still is to -- to warn the -- go up, warn the -- the people on the lakes, or -- on the boats, and try to get them to -- to turn their music down. As far as if the boats are -- are like party boats or stuff, if they are underway on the lake, we don't get complaints about that. I mean, very few, if any. And it's not like the ones in the companies there where we get -- in the coves where we get numerous complaints. From what I understand the residents are very happy that we are attempting to go down this route to have a tool to enforce the loud music on the lakes.

Martinez: Do we contemplate this being a complaint driven citation or will the officers actual patrol and listen and flag down boats that they feel like they are too loud.

Exactly. It's complaint driven.

Martinez: So if -- if bee creek cove is full of boats and a resident calls in, we will send an officer over there, maybe give them a warning, ask them to comply and then if they don't we give them a citation.

Exactly. Yes. That's what we intend.

Martinez: What is the width of bee creek cove? How did we come up with 100-foot, where is that?

Okay. The 100-foot, we are trying to determine or trying to come up at least with a reasonable distance for the loud music or basically amplified music is what's causing the problem. And -- and we looked at

some other city ordinances throughout the country. And they had -- or what we saw were some ordinances that did not include a buffer zone. As far as any type of scientific method to it, you know, there wasn't one. We just came up with, we figured ours for the vehicles in the neighborhoods is 30 feet. So -- realizing that sound travels a little bit further on water, we went ahead and -- and recommended a 100-foot buffer. But here again it's the amplified music is the problem and if someone is playing, you know, their little boom box or something like that, yes, you can hear it a long ways off but that's not going to create any kind of an intrusion into someone's home.

Martinez: Thank you, sir, thanks, mayor. I will move approval of item 26.

Mayor Leffingwell: Okay. Before you do that, I just learned there's one additional speaker who tried to sign up but was unable. So we will give her an opportunity to speak. Amelia lopez phelps.

Good morning, mayor, councilmembers. I'm amelia lopez phelps. I'm here representing the whole neighborhood association that lives along the lake. They are asking us to speak in favor of the ordinance. Basically everything that's been in said in favor of the ordinance is the reason that we are supporting this. The bottom line is protecting the quality of life, rights for the people that do live along the lake. I understand the issue about the distance and everything else and noise does travel as we all know through water or along a lakeline and I've been out there many times to hear it from -- from music that's coming across the lake. But I think having some protection and keeping the immediate noise away from close proximity to the residents would be very helpful and of course would allow our law enforcement folks to have something to -- to be able to enforce there. So we hope that you will -- sounds like you are going to, but we do hope that you approve it as is. Thank you.

Mayor Leffingwell: Thank you. Mayor pro tem martinez moves approval. Is there a second? Seconded by councilmember cole. Any further discussion?

Spelman: Yes, mayor. If I could -- is it commander? I can't see your -- from this distance, I'm a little nearsighted. The way it's written here is that if you operate sound equipment, so it would have to be amplified sound presumably in a watercraft, it's 100 feet away, that would be grounds for citation, do I understand correctly?

Okay. Yes, if it's being intrusive to -- intrusive to the residents around the area there. Now, here again, if they are underway or in the main part of the lake, you know, a lot of that is going to be drowned out by the other boats, we are not even worried about the exhaust noise or from other watercraft out on the water. So this is primarily -- we're focusing on the cove areas and wherever there are homes right along the lake.

Spelman: Sure. I understand -- I understand your intent and I understand how you intend to enforce this. And if, for example, some of the -- the fellow who was up here a few minutes ago playing music off of his iphone, we could hear it, i think people could hear it all through the room, that's real soft, though. It's unlikely that would register a complaint. On the other hand it would have been audible. How do we distinguish between stuff that is in violation of the ordinance and stuff that is sufficiently in violation of

the ordinance that we need to enforce it.

If someone is using say a radio like that or a boom box, that's not what is considered amplified music. Basically you don't have equipment that's actually increasing the decibel sounds of the particular music what whatever it is that they are playing.

Spelman: Let me give you another example even more prosaic. If you have a skull, a cox in the background saying stroke, stroke, stroke, that would presumably be audible 100 feet. In fact I know that it is because I have heard them say it. They could be technically cited. They are in violation of the ordinance. I don't think that you would do that, though.

No, we wouldn't. Like I said down on lady bird lake --

go ahead.

Excuse me, councilmember, david douglas with the law department. I think that activity of the rowing on the town lake is a permitted activity and where there is activity that is permitted it is -- it is permitted in the sense that they have a permit to operate that concession on the lake. Those are exempt by the existing c provision.

Spelman: I don't see it here.

It's not in this ordinance, it's in the existing city code that's not being amended by this ordinance. It's in -- 9-2-2.

Spelman: I will take your word for it david.

Coxs on skulls are exempt. An I phone would not be, it's a sound producing device.

It is.

It would be audible 100 feet away. My concern here is not that I don't think -- I believe you when you say that you're going to enforce this in a reasonable way. But on its face it seems to me to be an unreasonable ordinance because it could be enforced in an unreasonable way. And I'm not sure what to do about that. Is there a way of drawing this a little bit more tightly so that people who are concerned about unreasonable police enforcement at some time in the future could be reassured that only reasonable uses of police discretion would be allowed in this ordinance? A little bit more stricter way that we could write this rather than just audible 100 feet.

It could be drafted more strictly but it would make enforcement extremely more difficult to require a certain decibel because then it would require a sound meter, a properly calibrated and tested sound meter from a distance and then identifying which individual boat was producing that --

Spelman: That's the hard part.

That would make enforceability pretty difficult.

Spelman: You could measure it with 75 decibels, but you couldn't say you were the source of the 735 decibels.

Right.

Spelman: Okay. Thanks.

Mayor, I'm going to vote in favor of this, but I'm also going to watch carefully to see if there are any complaints about the complaints and reserve the right to make -- to tighten this up a little bit in the future if we need to.

Mayor Leffingwell: Thank you, councilmember. Mayor pro tem.

Martinez: Thanks, mayor. I agree with councilmember spelman that there is some ambiguity in this, but I also know that it's clearly an issue that needs to be addressed based on specific experience going out there and spending time with our .. What I would suggest is that we go through a spring season or a heavy holiday weekend, see how this works and bring the report back to council and let us know if there's something else that can be added to it to improve this. I think like with many ordinances, like the one we adopted at the last council meeting about banning texting while driving. You can nit-pick any ordinance apart if you want. At some point, though, we have to trust the judgment of our officers, let them go out there and use their training and good judgment to enforce these ordinances that we put in place and I think that's kind of somewhat what we're facing in this case. I absolutely believe our officers would use the best training and discretion as possible. But I would like to see this come back to us after a busy weekend just to get some information on if there's way we can improve it. Thank you.

Mayor Leffingwell: I agree with that statement, also, although councilmember spelman is correct. Technically if somebody heard the soft music from an iPhone across the lake, it could be a violation. But our officers do have discretion in how to enforce this law. And I look -- I don't believe it's going to be a problem, but certainly if it is we can come back and revisit it. All in favor say aye.

Aye.

Aye.

Any oppose ed? Passes on a vote of 7-0. So council, that brings us 30 time certain, we will call up the first briefing which is the citizens water conservation implementation task force presentation.

Good morning, mayor, councilmembers, thank you for invited us here today to give a brief update on where we are with the citizen water conservation implementation task force. One thing that I am hoping

that we can do is change that name, it's too hard to say.

Mayor Leffingwell: I agree.

I wanted to thank you for your leadership in bringing water conservation to the forefront of the public dialogue, such an important element for our quality of life today and as we move into the future and the whole aspect of conserving water, managing our water resources is just critical. Also I wanted to recognize some of the task force members who are here today. If you all could stand up. I know Jennifer Walker our vice chair is here. Gail Rosenthal, there may be a few others, so I want to thank them for all of their efforts. Also appreciate the Austin water utility staff for supporting Austin as we've met 8 or 9 times over the last two months. While they are busy implementing the ongoing conservation programs, preparing for and managing droughts, they are also being a great support to us and we really appreciate that. I wanted to talk a minute, refresh you about who we are. We are a 15 member task force made up a broad base of stakeholders. Members of the conservation team from businesses, developments, environmental interests, a broad range of stakeholders and we have invited a couple of members from the environmental board, the resource management commission and water and wastewater commission to join us as we embark on our new tasks that you assigned us with this summer. So again our history, we are the result of the great work by a task force that met in 2006 and their recommendations in 2007, which included 23 measures to achieve the goal of an additional 1% per year reduction from peak water use or about 25 mgd, million gallons per day, reduction over a 10 year period. Then we were created in early in 2007, and August 6th of this year you charged us with an additional goal of developing a vision and some additional short term strategies and long term strategies to really affect cost effectively and efficiently and thoughtfully affect water conservation as we move into the future. Today here to give you an update on where we are in the implementation of the 2007 recommendations and also a brief overview of our work to date on the new 2009 charge. To refresh the 10 year goal, one percent reduction per year over a 10 year period or 25 million gallons per day of peak savings. 2008 Goal was for shave the 18 million-gallons per day and 2009 goal, that's fiscal year 2009 to shave the peak by 8.7 million-gallons per day. And the -- there were 23 specific recommendations to achieve those savings. So what's been accomplished? The actual peak savings for fiscal year 2008 were 4, a little difficult to sometimes ascribe specific savings to specific measures in light of weather variation and that sort of thing. But the staff has estimated 4 just from the 23 recommendation. Other savings have been achieved through the ongoing conservation programs that were in place prior to the 2007 task force. The actual peak savings for '09 are still under analysis. It's difficult to tease out what's - - what are the savings that we can attribute to this stage 2 conservation measures, those kind of rosy the riveter curtailment drop measures and which parts are attributed to those long term conservation strategies. Nine of the measures have been fully implemented. Nine are partially implemented or in process and five of the recommended measures are kind of being researched or they are on task in the work plan over the next few months. Just to put some numbers to the different measures, you can see the biggest bang for the buck, if you will, are the savings achieved through the watering restrictions and implementation of the water use ordinance. While some of the specific projects that were identified by the task force have not yet been completed many have been approved for implementation. The 51st street water tank for the reclaimed water system has been completed and is now online. There has been some additional water reuse savings somewhere between two to three million gallons per day that

was the result of those projects before the task force. So there are some savings that have been achieved that are not reflected in this table. Now, just in brief, so the mandatory watering schedules in place, the reclaimed water system has been expanded, leak detection program turned up a notch, significant savings about 3ish mgd in leak detection savings. Those contracts are in place as recommended. The fifth tier for the water rate structure has been recommended. I'm not sure about the implementation date but I think that's coming soon with respect to that. The public outreach programs have been expanded through internal efforts as well as partnerships with the Icra and the water iq program. The incentive pressure reduction are in place, of course the advisory group is implemented and hence we are here today and a number of changes to the plumbing code have been implemented. Some of those savings haven't been realized because many of those plumbing code changes really are about new construction and some of that new construction just hasn't happened that. But that will provide great long-term saving opportunity for us. Now switching gears to the 2009 charge, where we are is we've met about eight times SINCE SEPTEMBER 14th. But once a week. We are getting to be really great, great friends and wonderful people involved. While we've addressed the new policy charge, we've also addressed the ongoing 2007 recommendations. We held a joint working meeting in August with the resource management commission. You all added four new members to the task force, which we are very grateful for. They are wonderful addition, great perspectives, great energy. Really bring a lot to the table. We developed a program to invite and welcome in the six new kind of designated representatives from the boards and commissions and he they have been meeting with us over the last couple of months. We developed a work plan and schedule and drafted a vision and guiding principles. The notion of the guiding principles is conservation measures will come and go over time as demographics exchange, as water -- change, as water use patterns change but the guiding principles should take us through time and really integrate and incorporate good water conservation and water management strategies as we move forward in time. We have also identified goals and strategies for indoor conservation, outdoor conservation, icy, industrial, commercial, institutional users, reused and reclaimed water, system development and what happens as we expand the utility system and expand service, what are some of the ideas about bringing water conservation and water use efficiency to new development, particularly since -- if our population is expected to double by 2050, it would logically follow that 50 to 60% of the housing for that new population is not yet built. So there are tremendous opportunities not only for our existing folks, but also for that future development. We've begun working on outreach, public information and education strategies to really turn that up a notch and we've had great participation from the public at our meetings. We have two times during our agenda for public input, one at the beginning of the agenda and one at the end and we have had wonderful, wonderful, very practical, cost effective, achievable ideas. We have incorporated those into our strategy. So moving forward through the end of the year, we have five scheduled meetings between now and the holidays, so we will have many opportunities to further this document and the new strategies and recommendations. We want to address impediments to conservation, institutional impediments, maybe it's state law, maybe federal restrictions, what are those things that are keeping us from being as efficient as possible. Of course the corollary, find those opportunities to overcome impediments. We want to talk about partnerships, funding strategies, conservation is a long-term investment in water supply and every investment takes some wherewithal to make that happen. So we want to talk about maybe some ideas that you could consider. We have about so far about three to four dozen different

strategies that we have identified. We want to go through and prioritize those. Give a sense of what we believe to be important strategies so that staff can then take those and analyze them and see what really makes sense, what's implementable, achievable, cost effective, what ensures supportability and those kinds of notions. And then take all of that and -- and put a document together and then -- our thought is that we would take that draft document, forward it to the resource management commission, water and wastewater commission, and the environmental board, so you have the opportunity of the broadest input, the great ideas and comments from those groups that when we present a final document you have some -- you have some assurance that it's a really broad group of -- of citizens that recommend that. Now, in order to get everything done, between now and when we can give you a final document, we would like an extra 60 days. Our goal is when we talked about this at the task force meeting, our goal is to have draft policy document done in about mid january, we are making great progress. We have a lot of the drafting done, but we still have a little work to do in -- to be given the long-term nature of this effect and opportunity, as i told the mayor earlier we don't want it so bad that you get it bad. We would like the opportunity to develop a really good document and spend about a month or so taking it through those commissions and bringing it back to you by the end of february. We are requesting an additional 30 days if it please his the council. With that I will end the presentation and entertain any questions that you have and let you get on with your business.

Mayor Leffingwell: I will just say that it will take council action for the extension. I will be fully supporting that. There's absolutely no hurry. I would be in favor of actually an additional 90 days to give you a little cushion there. Of course, if you get through before that 90 days then you don't have to meet anymore. You don't have to just go down there and see each other.

What will we do with all of that extra time.

Mayor Leffingwell: We will be bringing that forward shortly and also notice there are two vacancies and we will be making an attempt to fill those. Councilmember riley, did you --

Riley: I just wanted to thank you for all of the work that you and the rest of the task force have been putting in on this effort. It really is critical for the whole city and I know that it's taking a lot of time and energy for everybody involved. But I want you to know that it's appreciated, not just by this council, but by the whole community.

Mayor Leffingwell: Yeah, and you made one point which I wanted to emphasize. First of all, the analysis of implementation so far that you have presented in the beginning of your presentation is actually implementation of policies that have -- that are already in place. Those were established by the previous task force. And the second thing, i really hadn't thought about it too much until you mentioned it, but stage 2 really makes it almost impossible to gauge what the actual savings were from the policy during this past summer. Because that is a temporary measure, it's not something that we're going to look to -- happen every year hopefully. So -- so unfortunately it looks like it kind of throws one data year out for us. But -- but we do have a couple of more years before this past summer and we'll have your additional years in the future. But thank you very much for your office. I look forward to seeing your specific

recommendations for -- for water conservation strategies.

Thank you so much.

Mayor Leffingwell: Thank you. Oh, excuse me, Susan? Councilmember Shade may have a question for you.

Shade: Actually I don't have a question. I do want to echo the thanks that you have heard already from people here. I know that I've had an opportunity to meet with some of the people who are serving with you and -- you know, I want to say that like Chris said, you are doing a service for the community at large and I know that it's not always easy to put in the time that you are putting in. A lot of talk has been, you know, there's been a lot of talk lately about -- about looking at other cities and what works and what doesn't. And I think that there's no question that the cities that are most successful are the cities that have citizens and community groups that are most actively engaged and so I want to recognize that that's incredibly important and also acknowledge the fact that staff has a role to play in that and I know that it takes lots of their time to be at these meetings and that everybody is working really hard and there is a sense, sometimes pride in authorship, and turf and I just want to -- to encourage everybody to recognize that we have got a lot of attention on water conservation right now, partly because of the drought that we're in and partly because of the fairly contentious debate that we've had related to water treatment plant 4 recently, so I just really want to say that the work is even more important now than ever. While you should take the time you need to create the product that you want, I will certainly support the extension. Please do keep the sense of urgency because I do think that people are counting on it and right now there's a lot of attention on it and I know that we have some staff here that work directly with you all and again, this is more important now than ever, I just say from the dais for the record that we need everybody working together. So thank you.

Thank you.

Mayor Leffingwell: Thank you, Susan. I would also add, there isn't a question, we're done, I believe. ON NOVEMBER 19th, THE Council will get a briefing from the water utility staff on what the policy that's actually in place right now is. And I think that will be useful to a lot of folks in the general community who have been making suggestions to us. And as I said, at one of our previous meetings, you get these suggestions and it turns out that nine times out of 10 we're already doing that. So this is part of our educational outreach effort to tell people what we are doing already in the way of water conservation. So thank you. 30 briefing is a briefing on Austin Energy's implementation of federal stimulus funding for low income weatherization. Mayor, Mayor Pro Tem, members of Council. I'm Carol [indiscernible] for Austin Energy. I walk through a brief presentation here to give you some pretty exciting news about what's coming in terms of delivering, enhanced delivery of energy efficiency, weatherization services for low income customers here in the Austin area. The -- what I'm going to cover, this will -- too enthusiastic. A little bit of a remind about what weatherization is all about. Some of the rules that are coming with this money from the federal government, because rules come with money from the federal government, some of the things we will be able to do in homes that are eligible, who is working on this, what some of our programs, how our programs will be integrated in order to deliver these services and

some of the key milestones, road map activities, a road map of activities as we move along. The first thing is to give you the context for what low income weatherization is all about. It started as a federal program and the idea is the logic that you see before you in the presentation. The function is to assist low income households, that's households and homes, so it doesn't matter if it's an own your own home situation. Households and homes who have a high energy burden. The way to do that or a goal of doing that is to reduce energy costs because energy costs are such a big part of low income household budgets. Sometimes as much as 25% of a household budget can be related to energy. The way to do that is by increasing the efficiency of the homes, dwellings that they live in, you get a side benefit of improving home safety, home health and safety for people within, especially within targeted recipient customers the elderly, persons with disabilities and families with small children. In addition the program is justified and is made even more valuable because even if we can't weatherize every single home that needs it, we get across the board benefits, this eases up pressure on bill payment programs. The more comfortable the energy bill is the less demand on bill payment assistance programs. Of course we of course get the environmental benefits. The utility sees the benefit in capacity. It pays not just for some but for all. Where do we stand? We were invited to submit a proposal against a formula calculation and submitted that proposal this summer 8 million for a two-year contract award. We received notification of that award from texas department of housing and community affairs on -- in october. We are in the process of negotiating the legal details for that. The way the money is going to be handed out is 9 million, half the amount for the first year, then upon proof that we have spent the money and done so in an efficient, effective, responsible way, we will be able to get the second traunch of funding in order to move forward. There are rules, guidelines applicable to the spending of this money, those rules come from two sources, ara and the weatherization program at the federal level and the texas department of housing and community affairs who are the grantor of these funds to us. The first is the 200% of federal poverty household budget for funding qualification. 200% Or below of the federal poverty income guidelines. The next slide has all of those numbers for you, i will fly by them quickly, you can make reference to them as sort of a standard calculation. What's really exciting about this, though, is that the normal spend of \$1,500 per household was dramatically increased with the stimulus funding award to \$6,500 spending per household. What it could be spent on is the first subbullet there. Labor and materials is obviously going to use up the major part of the money per household, health and safety measures up to 20%, include things like carbon monoxide detectors, broken door, that could be a safety issue, health and safety limitation. Our administrative costs are limited to 5% of the grant amount. Of course it is our intention not to use all our administrative funding because everything we save on that, we can put into more homes for weatherization. It is a two year program. As I mentioned before. It ends august 31st of 2011. Actually the clock is already ticking. This is the guidelines that I told you about. The household income below which, at or below which customers will qualify for participation in this program. What sort of things can we do with this money? Standard weatherization activities are listed at the top. Attic insulation, solar screens for windows that gain a lot of heat through the sun, air infiltration, leakage, caulking, that kind of work. But with the added money we can also look at situations where it makes sense, it's affordable to replace heating ventilation and air conditioning equipment, perhaps small condenser units that are way out of date or inefficient or not functioning properly or window air conditioners, which we already do a refrigerator replacement. That increased budget really gives us an opportunity to do more. I mentioned doors. We could also do other minor energy related repairs,

especially under the category of health and safety. All of the measures which we deliver have to pencil out with the benefit to cost ratio greater than one. That's penciled out against the energy efficiency benefits that the measures do deliver. The priority list that i mentioned before the elderly, families with disabilities, members with disabilities and family with small children are part of the program guidelines, all of this is tested through a formalized process at the department of energy's auditing software. The way we will actually do it, to go a home, conduct baseline testing with blower doors, install the measures, test afterwards to show that the improvements have positive effects. A little bit more on the money. I already mentioned we can get into bigger units. We can possibly get into situations where we can address wall insulation. The health and safety budget per household could be up to \$1,300. I will stress a key. We don't have to spend \$6,500 per home, it's the mac. We will look at the house, what's most effective for each particular household. Maximum. We can do sweep through with compact fluorescent lighting, a big quick savings. Can you get accumulate the household budgets for multi-family units. Something very hard to do with that old number of \$1,500. Now we can take \$6,500 and for example if the complex held 10 units, that would give us a \$65,000 budget for that building complex, which allows you to really start getting after some of those serious mechanicals. One key thing, though, wasn't to do. We recognize that the \$6,500 is for these two years of funding. There is some opportunity, perhaps, for additional funding that could come from the federal government. But nobody said anything specific about it. We're going to run this program the most effective, the moneys available we will be the highest qualifying. But it is entirely possible we drop back down to the \$1,500 budget later. One of the things that we want to learn when we spend the \$6,500 per household, what measures really make sense in these homes and should we import into the balance our energy efficiency programs conducting at austin energy. That's pretty exciting. A lot of people have been working on this. I only have the honor of talking about it. But everybody else has been working really hard. We have 11 people committed at austin energy. To work on this. Texas department of housing and community affairs has had two people participating in all of our planning meeting. Travis county, deborah briton, the director of community services here, 8 people working on this, they are a parallel recipient to us, I'll talk about that more in a minute. Austin housing finance is providing two people. They are also lead abatement specialists, they will add an added wrinkle of safety measures if we have any lead paint still around. Texas gas service is going to work with us to coordinate their energy efficiency programs along with ours. We have created a number of committees which will continue to make sure that we're compliant in the execution of our programs. A little bit of background real quickly. Austin energy has been doing weatherization for a long time. Since 1982, over 14,000 homes. This is a resource, if you will, that you can keep going back in in terms of getting energy savings, but also means there's a lot of need out there as well. In the past we have averaged about 600 homes focusing on single family, duplexes and mobile homes. The \$6,500 is particularly exciting for the multi-family homes. I have listed for you on the presentation the sort of things that we have done in the past. We will expand on those with this additional money. We will try to run that same program in parallel with this weatherization program so we can do maximum coverage in the neighborhoods where we're going to be going. And we of course well continue to work with travis county and austin housing finance corporation as i mentioned before. Austin housing has different some cases lower. What we will try to do in some cases is reach their qualifying customers. They also have access to rehabilitation funding perhaps, that will let us get to some of the things that the weatherization budget may not be able to sustain. Travis county was received almost \$5 million itself and since there's so

much overlap in the jurisdictions, we are going to come back to you on november 19th with an interlocal agreement that will allow us to cooperate, not move funds, but cooperate to make sure that we don't step on each other's toes and we really go after trying to get the maximum benefit in energy savings as we deploy this program. We all are committed to getting our money spent completely for the benefit of our customers. The key dates we have been working on this a little bit in terms of putting out notification and going through our boards and commissions. Last night most recently a briefing to the environmental board. This briefing to you, we're going to be coming back on november 19th with two items, a budget amendment so accept the funds, the first 9 million and that interlocal agreement with travis county that i mentioned. Then we're going to start soliciting for the contract services that we need, more on that in a second. Which will allow us to get people into the hiring pool so they can deliver the three kinds of services test in, delivery of services and the test out to demonstrate that the measures were effective. So here's that point on contract solicitations. We have a strong commitment to the utilization of our underutilized workforce. We have didn't doing a number of activities I can tell you a little bit about later. But these are the main points. We're trying to increase these opportunities. We see potential for as many as 120 davis bacon wage compliant jobs coming out of this program just in the next two years through all of those contractors or subcontractors that are going to have to be hired to deliver this program. I can tell you that, you know, the biggest thing our people worry about is making sure we get this program delivered. So we're going to make sure that we have the workforce capable to do it. Let's see I will go from here to our project management steps. What's in front of us is finalizing the budget once we get your approval on that RCA ON THE 19th. Putting our staff in place in a war room or an alpha team kind of setup that we're going to have over at building 811. Continue to work with our subcommittees and he get input from them. We have identified five target zip codes where we know that we are going to have a high percentage of these qualifying homes that we can reach to -- sort of make delivery most efficient. Tdhca has also said they support the targeting idea, but they have asked us to reserve 20% of our funds to ensure a geographical diversity. We think that's a good idea. That will be part of the contract as well. We're going to continue training and qualifying employees, a lot of it has to be mandatory because the federal government requires it, but we want to continue qualifying the workforce as we move forward. What have we got to do?

We have to identify the people that qualify. If we spent the maximum \$6,500 per household, we could hit somewhere around 425 to a hundred homes per year for each of these two years. Obviously again if we spend less we can touch more homes. Just to give you an idea of the number that's we are looking at here we had a backlog carrying over from last year's weatherization program of 275 applicants. We're going to streamline the process for them to get cleared for this program. The customer assistance program has a number of customers who may also be eligible for the weatherization program. Or some of the other programs out there. The plus one program austin finance corporation housing finance corporation maintains a list as well. Travis county maintains a list. From that universe we will find the ultimate recipients, but in those five targeted zip codes that I mentioned to you, we believe that we have as many as 39,000 eligible households. So we don't get it all done in these couple of years. And there's always more need than we have available funds but, you know, like I said we're going to do what we can efficiently and effectively this year and next year and figure out what sort of permanent program things we can do to keep addressing this issue in our community. We have been working strong with

other departments in the planning phases and are really excited about the opportunity to do it in the execution. We want to do things like when our initial auditors go in, they have the ability to identify whether or not the toilet needs replacing so we can contact over to the water department say hey we have another eligible household here. We want to touch these homes in every way we can for energy, quality of life benefits as we go through. I already mentioned the cooperation with travis county that we're going to have. And with austin housing. We're going to work with social service providers to make sure we have contact in the communities, that process is already started as well. And we have even provided some information for contractors so they could start preparing themselves for thinking about whether they can participate in this opportunity. I believe a brochure has distributed to you. Last thing very exciting. We want to supplement you apply to us, we qualify you and deliver, with something that I got to work on in my past in houston when we launched the pleasantville and sunny side to go into whole neighborhoods within a time, to make sure every home got the touch of some kind of delivery of services. It was much more effective in terms of overhead costs .we want to borrow that idea here. We have been in touch with those people, we think that can really help us be more efficient. Last thing is key points of recognition. I already mentioned that we have got margaret shaw director of neighborhood housing and community development with the city and deborah briton director of community services travis county and they are here somewhere. There's margaret. There's deborah sitting right there. They have volunteered that if you have any particularly tough questions on their areas of expertise they are willing to answer them. I would be remiss if i didn't point out two people, one who couldn't be here because he's sick, steve saenz who runs energy efficiency program delivery. In the energy efficiency services and joe guerrero, who is the program manager for this. He lives and breathes weatherization. And in fact even warmed up for this by delivering 50,000 com pat fluor -- compact fluorescents to low incomes. They are the one that's are going to do the really hard work. That concludes my presentation. Do you have any questions.

Mayor Leffingwell: Thank you, I will just say i was really glad to hear you mention this technique that houston is using, actually isolating a target neighborhood and going out and physically knocking to these doors to ask these people, all they have to do is sign on the dotted line and make those improvements. I am glad that you have experience with that. I know that's a very successful model. I believe that this program will have as much or more impact as some of the more exotic energy measures that we are contemplating such as solar panels and so forth. I'm very enthusiastic about it. Councilmember morrison?

Morrison: Thank you, this is very exciting. I have a question, I don't know if you can answer it or not. You mentioned that these are going to be available whether it's rental or home ownership. How does that work exactly? Say you are canvassing a neighborhood and you run into somebody that's renting. Can they actually sign to have actually commit to have improvements made to the house or does that somehow need the landlord involved?

We do have to get to the landlord if we are making any changes to the structure itself because that is their property. Things like a window air conditioning unit or refrigerator of course doesn't apply. But attic those landlords to not raising rates, rents, because of the energy efficiency programs for at least a

period of one year after the delivery of the programs. We don't want that kind of snap back obviously.

Morrison: That's going to be a requirement of the program.

That is a requirement. They can accept the improvements and will get more rentable, more affordable units to rent, but they have to agree not to use that as a reason for jumping the rent. Too at least a period of a year.

Morrison: That's signing on the dotted line.

Part of the agreement, yes, sir.

Morrison: Great. I want to say how pleased i am to here of the collaboration going on, I i know there are with all of the ara fund. But this is the perfect example to be working with the county and all of the other organizations and certainly doing the proper outreach is going to be key to this being a success and it sounds like you have things well underway with that. I do want to mention and echo the thoughts on the neighborhood canvassing program. To add to that, I'm aware of another canvassing program, I think it was in san antonio where in order to do the canvassing, they actually hired for a small non-profits. So the non-profits were able to actually get? Fundraising for their -- some fund raising for their own organizations and at the same time be proponents in reaching out of energy efficiency. And reach out to the -- to the neighborhood and they are the ones that have the contacts. So you might take that under consideration, too. I would be glad to get you some contact information.

That's great. We would appreciate the help. We are also gathering lists of things like churches and other civic organizations that have high contact with their neighborhoods because they are also excellent ambassadors for helping explain, making people feel comfortable with the idea. We have to come into people's homes and there is a disruption in their lives and there's, you know, sort of who are you and what are you doing here? So having a local neighborhood interface with people who are familiar with is critical.

You might want to be in touch with the neighborhood associations, I expect a lot of the target areas will have them. Thank you very much.

Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: I want to thank you for the presentation, too, very exciting. I think that I heard you mention a number of davis bacon jobs. What was the number? I didn't see it.

We think there could be as many as 120. That's, the 3 million places those come in, solicitation for contractors do the preinspection, blower door testing, evaluation of the homes, those people could also do the post inspection. There are separate people. Then all of the contract delivery people that the

service delivery people in the middle. Those include, you know, both the sort of service delivery people we already have relationships with, new ones we are trying to recruit in and qualify plus the subcontractor people working for some of those firms, so altogether about 120.

Great.

And I appreciate your mentioning providing training ground for a new green collar workforce, that I know that we've had ongoing coordination with a.c.c. Will this program enhance that -- that joint effort ?

This isn't directly related to sort of the thing programs that we have ongoing. We have been running most of this through, you know, through the -- the -- a program that we have initiated working also with the city to do special training because it's federal weatherization programs, it's sort of special training to meet their criteria. But -- but we have we have adopted a specific goal of adding 30 qualified firms. We have one training session, two more scheduled, one open house orientation to come find out about it, to do more. So this is a supplement for sort of the short hit thing. But could lay itself up for a nice carryover to an a.c.c. program I think.

Riley: I want to follow up on councilmember morrison's questioning about the collaboration you are doing. Particularly in looking to the san antonio example. I know that one aspect of the work that they have done there is actually focused on water conservation. As well as energy conservation, as we think about the collaboration involved in this effort, i wondered if there has been an effort to coordinate with -- with our water utility to see if -- if there are opportunities to -- to engage customers in lowering their -- their water bills as well as their electric bills.

Yes, definitely. [One moment please for change in captioners] .. in the neighborhood in terms of turning people out and making it more of an event to actually come to and see a home being weatherized. And so within of my suggestions to you is that we really focus on a public awareness effort for a specific neighborhood and identify specific homes that are actually going to be weatherized on a particular day and highlight that because sometimes our efforts are so broad in terms that people really don't know what we are doing or the fact that it really is designed to elicit the support of the minority community together with the support of the lower income community. So I think that needs to be at least the focus of a saturday morning event and you actually ask some or all of us to actually be at that event. Because that's what I think really made the houston model so successful. And then second, I wanted to say that I have been working with several pastors in the african-american community and, of course, they have the concern that the green collar economy may actually pass the minority community by, and i think that is a sentiment throughout the minority community and throughout the lower income community. So I'm glad to see that you are doing outreach efforts to the contractors, and I just can't emphasize enough that we actually have them involved in so jobs that we actually think will come from this effort. And I am more than willing to help with that as you try to do that. I did have a question, though, because you mentioned that we could spend as much as \$6,500 per household, and I'm wondering, like, if an average home in an average working class neighborhood is, I would guess, and margaret shaw might be able to help with this, is 1200 square feet. Do you have any idea about how much money it would take to weatherize that home? And I know there's factors that may vary in terms of the condition of the

home, but I'm trying to get a sense of how we could cover more homes.

Sure. We do know historically that when we spend about \$1,500 a home in the past, we could come in and get 20 to 30% energy efficiency improvements at that level of savings for some of the older homes, the ones that, you know, have little or no insulation in the attic, which is getting increasingly cheap to deploy. Window screens which could be effective in reducing solar gain and therefore reducing air conditioning. So we know we can get to a pretty good base load. The -- sort of the performance curve of energy efficiency, the return diminishes as you spend up to some level. The thing about the 6500, we can probably get into some of those appliances and make permanent long-term shifts. Once you take care of the envelope and get it in pretty reasonable shape, we probably won't be able to touch ex tore your wall insulation, for example, we can get the ceiling, the attic insulation, we can get the windows, then we can start getting into the hardware inside because then the next levels of energy consumption become things like the refrigerator, which runs all the time and can be particularly inefficient. The window air conditioner which is sort of not sized properly perhaps and, you know, it's trying to be used to air condition an entire home. Those kinds of things. Then we could see sort of durable savings that could also push those numbers up, perhaps as high as 40% savings in a home. That gets pretty serious. Long term what I would like to do is find out, we have that 500-kilowatt hour starting rate that's built into the rate at austin energy. You know, that number or whatever that number should be is what we would really like to sort of kick for, to get where you get the consumption on that kind of home to the level where they stay in the first tier of rates. And that, to me, is -- sort of makes supply meet demand in a most cost effective way for those homes. I want to mention to you on the jobs, jan lawson has been doing just an amazing amount of work with us helping us get smart about this and I would be remiss not mentioning her name. She's the one that beat into my head you've got to get the word out early so the firms can organize around responding to this opportunity and she deserves great credit for the idea of the brochure and the orientation sessions and we think that's going to pay benefits as well.

Cole: I'm so pleased that you mentioned her because I've heard on several occasions about the work she has been doing and it is having a tremendous impact. And the only other thing i would add, I think it would be tremendously effective to not just say energy efficiency weatherize, but if you say new refrigerator, that resonates. You might turn a whole neighborhood green. That type of wording and public outreach, it makes a difference. Especially to the -- the target incomes that you are trying to reach or we're trying to reach.

Then we can work on those be.

Cole: Thank you.

Mayor Leffingwell: Councilmember spelman.

Spelman: Let me follow up on where sheryl is going. I'm happy we're able to reach 200% of poverty level or below. Which I realize is -- to see extent we've been by passing. A quick read of the chart you kindly flashed just for a second because none of us want to look at it closely, suggested 200% poverty

was approximately 80% of median family income. Is that right?

That's about right.

Spelman: I don't speak the poverty numbers but I speak the mfi's better. And my understanding of fmi, the vast majority of people are below or living in rental properties, don't own their own home and are living in multi-family properties. Now, this puts a limit, though, on the number of those families you can reach because a lot of those multi-family properties, as I'm given to understand it, don't have separate meters? Is that correct or --

I'm not sure. Do we have a lot of master meters or are they pretty individual? A lot of them are individually metered.

Spelman: So they are now individually metered. Master meter was a big problem a few years ago.

Right.

Spelman: This is probably not covered by this stimulus grant but might be an important issue for conservation downstream. If you are dealing with an apartment complex which does have a master meter, everybody is sharing in the electric bill and the electric bill is being set by the landlord -- being paid by the land forward, that's going to put a crimp on your ability to conserve, partly your ability to identify which need the conservation the most and I won't turn out the lights if I know I'm only paying 1/20 of the light bill.

It's probably impossible to equal them by household.

Spelman: Do we have a program to try to persuade landlords to individually meter their apartments?

I don't know if we have a specific effort in that regard. So not -- not in particular. I don't think we've sort of found the need -- it is beneficial to landlords to do that obviously because they avoid some problems. Clearly participation in this program would require it. Interestingly, if in fact that behavior response asbestos you suggest, if there -- is as you suggest, I would hope they show up as energy hawks and we'll be able to target energy efficiency measures to them.

Spelman: Not through this program.

Not through this program but getting them focused on energy efficiency. At any rate, that would be a good complement on the multi-family side over the next two engineers.

Spelman: My guess it would qualify a lot of families who would not otherwise be qualified.

And target the multi-family units where perhaps these funds could be available somebody finds themselves on the energy hog list and we say if you have qualifying households, we could apply energy

efficiency measures, it's a win-win.

Spelman: Following up on the apartment house thing, I can imagine two ways of selecting households for this program. One of them is -- sounded like you were going, and I'm not quite clear, but if you assume we're going to be spending 5,000, 6500 on households and we're getting down to the refrigerator level and the appliance level. And you would take the 425, 500, 600 households per year that were the energy hogs, up to the benefit where the benefit cost ratio hits one. An alternative way going about the same thing is saying there are some envelope changes which we know are going to have benefit cost ratios much greater than one. The easiest one would be the compact fluorescent bulbs, which we know the benefit cost ratios are [inaudible]. So something like compact fluorescent for everybody would get you the highest benefit cost ratio but wouldn't dip deeply in any household but you get a lot of people. Allegedly attorney active, you could go down to refrigerator and window air conditioning unit number for a smaller level. Which way do you think? Everybody gets a little bit or a few get a lot?

The answer is yes. We're going to keep our entire program, energy efficiency programs going along, and even though compact fluorescent for everybody is getting phased out because it's becoming commercially available and economically viable across the mainstream, the reason we continued that in low-income targeted neighborhoods is because we know it's a high payoff for low investment. There's no reason to use valuable weatherization funds except for the fact we're going to do this whole house sweep. We can reduce the pressure on weatherization funds by keeping that lighting program going. Hopefully what will have found out is, you know, through our program where we distribute them, add basic information, get a door hanger program, that sort of sets the stage to come in. We'll also learn if the compact fluorescents are in use, if they are in use, it will save us on weatherization. If they are not, we'll figure out why they never got installed. You know, did you get the bulb, where is it kind of thing. They can work hand in hand with each other one. The highly cost effective ones, those are in our permanent program. The things the weatherization program teaches are highly cost effective we're going to put into our permanent programs so it becomes a virtuous circle.

Spelman: Let me back up from my individual question. I didn't mean to pursue the compact fluorescent essence, it's kind of a rabbit trail. The general approach I have in mind still stands, get a sense of it. On the one hand, we could do 10,000 households and do a little bit.

Right.

Spelman: Alternatively we could do 500 households and really nail the problems in those 500. And if what we're trying to accomplish is just plain energy savings, we're going to get more energy savings by dealing with a large number of households and just picking off the cherries. Alternatively we'll have bigger effect on some people if we dig more deeply. So how are we going to make that decision?

Generally speaking, the availability of fox-rad weatherization programs determines the limit on that. That's what you are going to do when you do the deep dive. When you spend up to \$8 million over the next two years, with addition to energy energy's traditional weatherization program everything else has to go into our regular bin and we generally test -- you know, we test those for the cost effectiveness, as

roger was explaining yesterday. These programs, the weatherization, pre-weatherization, we in the extra benefits, the community benefit. You know, when we evaluate those in cost effectiveness. But we believe there will be some of that cross-learning so we're going to run them both at the same time. Budget constraints for weatherization, federal funds reported against federal targets, showing. That then after that it's austin energy's energy efficiency programs.

Spelman: About how many households do you expect you are actually going to be reaching with this program?

It's going to be north of -- north of 450 each year on the federal weatherization era funds.

Spelman: We're talking about numbers like 450 or 500, not numbers like 1,000 or 2,000.

No. Probably not -- not with this -- I don't know. Actually I shouldn't say. I don't want to create any false expectation. We know what the minimum number is going to be, but having been here for the solar rebate program -- [laughter]

Spelman: I think you answered my question. One last question, this is just a technical one. On the benefits to cost ratio stuff, I presume we've got templates for all that stuff. The costs are incurred now, the benefits occur over a long period of time. Are the benefits and the costs just financial benefits and costs that we're looking at?

It's calculated in terms of energy savings. So you take the useful lifetimes the energy savings per year, total that up. If that's greater than the cost to install the measure, it's a qualifying -- I mean that's the simple version of it. The nice thing about having that \$1,300 for safety is for example an inadequate functioning door, inadequate from safety perspective, may not deliver energy efficiency savings but we can get it in the mix by putting in health and safety. It wouldn't be specifically tested by that because it would be put in the health and safety category as opposed to the energy efficiency category.

Spelman: Like the refrigerator will not deliver the maximum cost benefit ratio, but you are going to get a whole lot of other benefits.

And if the refrigerator is old enough, the improvements in modern refrigerators have been dramatic.

Spelman: Thanks.

Mayor Leffingwell: This is not a question, just a comment, and it really doesn't have to do with your presentation here this morning, but it was brought up. I would like to know the answer to what is the requirement for individual metering of multi-family.

I'll look that up.

Mayor Leffingwell: Because I know that in the case of water, multi-family units are required to be

plumbed and subsequent to city action, the action we took in 2006, requires that plumbing advantage of.

I'll check it out and share with city manager and you and members of council.

Mayor Leffingwell: Thank you. Thank you very much.

Thank you.

Mayor Leffingwell: That will bring us to item number 36 pulled by councilmember spelman.

Spelman: Mayor, my questions on item 36 have also been answered and I move approval of it.

Mayor Leffingwell: Councilmember spelman moves approval. Seconded by councilmember morrison.  
Discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Number 36 is approved on a vote of 7-0. And that brings us to item number 40. Item number 40 was pulled because of a number of citizens who have signed up to speak. So we can go directly to citizen comment on that. First speaker is ryan clinton. And if you'll give me computer just a second, you have some folks donating time to you. I'd like to check those off. Our normally slow computer system is abnormally slow today. Do you have them on yours? Here they are. Okay, martina bluen. Is martina here?

I think she had to leave.

Mayor Leffingwell: Lisa mclain.

She had to leave.

Mayor Leffingwell: Heather bailey. And ahai saint barry. So none of your persons who donated time to you are here so you have three minutes, mr. mayor.

Thank you, mr. mayor. I want to start by saying it's a good day in austin. It's a really good day for the homeless vets. I want to specifically thank councilmember morrison and mayor pro tem mike martinez for their leadership and also councilmember riley, i understand you joined also to sponsor. I really do appreciate what guys have donated to the issue. Everybody on the dais as contributed. Everybody has met with us and we appreciate. That we appreciate that the council has taken the time out of your busy schedules to meet with us, to listen to citizens concerns, and so while i specifically appreciate those that have sponsored this resolution, I also appreciate awful you for meeting with us and spending time on this. I spoke to you about three years ago. Some of you were here, some of you weren't. I spoke to you about three years ago on this issue, and i said at that time -- I quoted stin. It says hope has two beloved daughters, anger and courage. The anger at the way things are and the courage to make a change. I

think it's fair to say the community has exhibited anger on this issue. So politely, sometimes respectful but oftentimes has exhibited anger. It's an issue important to a lot of people and it's an issue that defines who we are as a community. The community has spoken loudly and clearly on this specific issue, on these specific resolutions. At city staff's request, the community attended en masse a community meeting about this to determine what the community's priorities were, and the communities spoke loudly and clearly in a vote of 100-0 to implement these programs and policies. The community has spoken when it supported the candidacies of many of you who ran in favor of implementing and committed to implementing specific programs and policies like those before you today. And the community has spoken by. [Captioning temporarily suspended] ing what I understand to be several hundred e-mails on item 40 in support of this. The community has spoken and exhibited its anger and I hope that you have heard it. The next step of that is, of course, the courage part. And we can't do it without you. I'm just going to say that right now. We've tried. We can't do it without you. We have made attempts to convince the city staff to implement programs and we have been rejected. We have made attempts to offer to implement these programs for free to city staff on our own without any requirements from them, and we have been repudiated. Now we need you and that's why we are asking for you to support this resolution today. Now, understand specifically that there has been a concern raised by some that perhaps the council doesn't have the authority to implement -- [buzzer sounding] -- to implement these programs and policies the way it is. May I wrap up?

Mayor Leffingwell: What were you about to say? I'll ask you that question.

Thank you. I understand a concern has been raised about whether the council has the authority to do so so I wanted to clarify that I read the city charter last night and in article 1, section 2 empowers the city council with all the powers of the city. That is a broad power. I've been an attorney for 10 years and I have been an attorney in government, I was an attorney in the attorney general's office for six. And that is an extremely broad power of the city council. Only powers that are expressly excluded from the city council are off the table. And there's an important distinction between a power and a duty. So when article 1 also gives the duty of the city manager to implement and administer the programs the councilman dates, that is a duty to do so, not a power taken from the council. The council has all the powers of the city except for those expressly excluded. And we simply ask you today to use those powers to pass item number 40 and to pass it as written today. Thank you.

Mayor Leffingwell: Thank you. Brad beam. Is allen cayman here? Allen cayman is not here. beam, you have three minutes.

Thank you. Mayor, mayor pro tem, councilmembers, thank you for this opportunity again, as ryan mentioned, to speak in favor of this resolution directing the city manager to work with the animal advisory commission. On their recommendations. I'd like to except to two items within the advisory commission's proposal. Both of them deal with the use of volunteers. I'm a past volunteer coordinator for austin pets alive, and our program started, our active adoption program started 15 to 16 months ago and has grown tremendously with the support of the community. Orientations for volunteers when it first started may consist of 10 a month. We're now up to 75 submitting applications for volunteering each month. The interest from the community is there to help with these problems as far as to solve the

problems that we have as far as increasing life out come at town lake. The other aspect of not only increasing the use of volunteers at town lake, but is also implementing a robust foster program would help with live outcomes. I currently foster a dog that was scheduled to be euthanized at town lake. I, however, I foster that through austin pets alive. Prior to the dog I currently have, I have fostered during the first six months of this year six additional dogs. All of them were scheduled to be killed at town lake. So I'm here to tell you that there are people in the community that are willing to help be a solution to this -- to the issue here, and again, I want to express my appreciation to all of you for considering this resolution, and again to the sponsors, members of the council also, just would ask for your continued look at this issue. I might go a step further and ask that maybe the council consider directing town lake to try a 30-day moratorium on killing any animals down there to see how that plays into the -- the possible plan that they implement by march 31st or that they develop by march 31st. But again, I appreciate your time today. Thank you so much.

Mayor Leffingwell: Thank you. Next speaker is larry tucker.

Hi, I'm larry tucker. I'm the chair of the city of austin's animal advisory commission. And this could likely turn into a great day for austin's animal welfare community. And I hope it does. I want to thank everybody for -- on the council for addressing this important issue and working toward a sustainable solution to the crisis of killing adoptable animals. A special thank you to councilmember laura morrison who appointed me to the commission and for sponsoring this resolution as well as councilmember mike martinez and councilmember riley. Thank you very much. The animal advisory commission heard you loud and clear. Your resolution said identify and recommend policies and procedures that are proven to be effective in other successful cities across the country. That means not recommend what you think will work, but what has been proven to work in other successful cities across the country. The commission made up of representatives from key partners across central texas such as mission orange whose members include austin's humane society, enanci pet and town lake animal center and other organizations represented were central texas animal alliance, fix austin, austin pets alive and spay austin coalition. We spent approximately five months researching and interviewing leaders at successful cities across the country. As a result, the commission voted unanimously on a road map to achieve no kill status in austin. The commission is excited about working with the city manager, mark ott and his staff and other community partners for the successful creation and implementation plan to -- to look at and create. Do you have any questions about the recommendations?

Mayor, I have --

Mayor Leffingwell: Councilmember spelman.

Spelman: Actually, tucker, it's usually considered irregular for you to ask if we have any questions. If we have questions, we know we can ask.

Well, thank you and I hope this is a unanimous vote and i thank you for taking this issue up and looking forward to your vote. Thank you.

Spelman: I know I can ask you so I have a question for you.

Okay.

Spelman: The current wording of the resolution is that the city manager is directed to work with the commission to develop an implementation plan. From your point of view, what is the meaning of work with?

Work with means to work with meaning join and listen to each other, debate, have thoughtful, respectful debates, and listen to other community partners as well, and specially the citizens through the animal advisory commission. By including the animal advisory commission, you are allowing citizens communication and citizen input and I think that's really important to this process.

Spelman: Your role as the commission is to be the funnel for partners outside of the commission itself. You are going to be their means of getting to the table.

That is correct.

Spelman: Speaking through you.

That's correct. We are the resource for them to go to the animal speak through the animal advisory commission through general citizen communications and then we would take that information as well and work with the city.

Spelman: A lot of the work of developing an implementation plan is sitting in front of a word processor getting the words right. Probably involves several weeks, several months worth of work on the part of some staff people. What do you see as being the role of the commission with respect to the nuts and bolts of putting that plan together?

I think the commission since we did a lot of the research that we can provide a broad overview of what has been -- what programs have been successful in other cities. And so we -- we interviewed a lot of the leaders in other communities. So I think that's critical and part of this decision-making process. So city staff may or may not be focused on city of austin policies and procedures and specific to the city of austin. We bring in a large, broad scope of knowledge from talking to those other city leaders across the country.

Spelman: Okay, so one of the things you are bringing to the table, you've actually talked to at love people who would be integral in putting one of these plans together.

Yes.

Spelman: And the information you have would be really valuable for implementing the plan.

That's right. These recommendations are a broad overview. We have more specific details that could be difficult in sharing some of the stumbling blocks they had, some of the things they thought would work that didn't work. These are recommendations that didn't work. There might be ideas that staff has that we think think may work, but we interviewed people who tried it and it failed. There's that input that could be very beneficial as well.

Spelman: Let me ask one last question. If you are not prepared to answer it, just say so.

Okay.

Spelman: Implementation plans, at least in high experience, tend to be not by citizens acting as volunteers but from staff people paid to do it. Would you have an objection to actual words being written by staff people with substantial input from the commission or would you insist the commissioners need to be doing some of the writing yourself?

If I understand you correctly, you're asking me if we plan to write the plan or if city staff -- we intend for city staff to write the plan and I think it should be a joint effort written together and agreed on. Did that answer your question?

Spelman: I think you did. Thank you.

Okay. Any other? Thank you.

Mayor Leffingwell: You have three more folks signed up to speak. If you do speak, it is unlikely that we will get to address this until sometime in the early afternoon because we'll take a break for citizens communications at 12 noon. I just want to tell you that in advance so if your remarks are duplicative, everybody has signed up in favor, you might want to take that into consideration. The next speaker is Larry Tucker. Excuse me, he will be Ellen Jefferson. -- Ellen Jefferson. And Lynn Home. You have three minutes.

Good morning. My name is Ann Lindholm and I want to change the councilmembers for the work already done on this as well as Mayor Pro Tem Mike Martinez and -- and Councilmember Morrison and Riley. I don't want to duplicate anything that's already been said today so I will just add my support to that. I want to say this is my first opportunity to speak in front of the council and I just wanted to show you a photo of the reason why I'm here. This is Max. He was my first foster dog with Austin Pets Alive and he was pulled off the euthanasia list at Town Lake. Happily, through the work of Austin Pets Alive and my fellow volunteers, Max is now in his forever home and I would like to see the city continue this sort of effort so that we can stop the killing, the needless killing of animals at Town Lake. Thank you very much for your time today.

Mayor Leffingwell: Thank you, Ann. Comments, Council? Motion? Councilmember Morrison.

Morrison: Thank you, Mayor. I would like to comment, I think that it's obvious clear that our community

and I think everybody in this room, everybody on staff and council understands the imperative and agrees with the priority of doing better in this city for animal welfare and our goal of becoming a no kill city. We have had a goal of becoming a no kill city for years and years and years, and unfortunately we've had problems making progress on that. I do want to recognize all the folks that wrote in in support of this who are really encouraging us to take a bold new step to make some real progress, and by the way, by my count right now, there's over 600 e-mails that have come. In its definitely a community that knows how to mobilize, but we shouldn't be cynical about that. We get so many e-mails because this is an issue that touches so many people's hearts. So we have had some lack of progress, and I'm thankful to the commission for their fleshing out and putting together some -- a road map of how we really can move toward becoming a no kill city. And that's why my colleagues and I have brought this resolution together today because it's really our responsibility as public servants to be able to address the concerns and take us to become the kind of city that we want to be. And so this has -- this does provide a road map. The explanation of why we're asking the commission to work with the staff and other stakeholders I think is very -- was made very clearly that the commission has much to bring to this discussion. I certainly don't expect the commission to be sitting in front of a word processor, but the other thing I would like to add as to why we need the commission and other stakeholders there is because what's integral to this plan, to these recommendations, are -- is that the city partner with the community. And so we need to have the community at the table developing the details of those partnerships. I want to clarify one thing that is correct the resolution -- make sure everybody in the community understands the resolution does not say we are going to implement these recommendations. The resolution says develop an implementation plan. It's going to cost money, probably some investment. Of course, there's going to be some savings on down the road, but we want to look at an implementation plan, see what it will take us, see what kind of investment we need to make to achieve this goal of the whole community and on down the road in march we'll be able to take a look at that and have further conversation. I thank my colleagues for co-sponsoring it and I would like to make a motion that we approve number 40.

Mayor Leffingwell: Motion by councilmember morrison to approve. Seconded by mayor pro tem martinez. Any further discussion? Councilmember spelman.

Spelman: ott, I'd like to ask you the same question, if you would like to pass this on to one of your staff people, I understand. I would like to ask you the same question that I asked tucker just a few moments ago. The resolution states that the city manager is directed to work with the commission and other related partners to come up with the implement plan. tucker sta in his point of view it ought to be a very close working relationship. We can figure out exactly what that meant, but he did envision some of the document be written -- at least some of the document would be written jointly by both the commissioners and other related partners and staff people. Does this give you any heartburn or do you think this is something your staff can do?

Interesting. Well, excuse me. Let me first say that in terms of the -- the overall vision and goals that are articulated in these recommendations, as councilmember morrison said we do support it and we believe it's right thing to do. This direction is a bit confusing and I can tell you that I've had some conversation with the city attorney's office, of course, who reviews all resolutions prior to them being placed on the

agenda, and I can't get into it specifically, they can probably do a better job than I can, but they have expressed some concern about the extent to which this direction the way it's currently written may blur the lines in regard to, you know, the policy making responsibilities of council and the manager's responsibilities for the administrative services and management of the organization, and they would have to be more specific about that. I don't know if you are prepared to go into that kind of detail as we sit here this morning. So I have to be concerned about it in light of that reaction that I have. And to some extent with respect to my own reading of this, but I've not had a great team to study it, I've been out the past couple of weeks. Some concern, yes. It's a little ambiguous. The shared, you know, writing effort that was characterized earlier, I'm not quite sure how that would work or even if that would be appropriate. Certainly we're always interested in receiving input from council's advisory boards and commissions. That's always the case. From my perspective. But beyond that, you know, I guess the short answer is there are some concerns and we're not entirely clear about what this means.

Spelman: There is a precedent -- I'm aware of at least one precedent clearly. When I was on the boards and commissions task force about seven years ago, half the members of the task force were citizen volunteers, the other half were city staff people. And the final report of that task force, which was largely adopted by the council a couple years ago, about two-thirds of that was written by citizen volunteers, actually me. And the other third of it was written by two city staff people. So we were able to collaborate on something as detailed as by the city council and come up with something which actually was at least sufficiently interesting to the council that it was able to adopt it. So I think it's not undoable.

I didn't say it wasn't doable. I'm not sure exactly how that -- you notice, how that would work necessarily. But again, we're -- we're very much open to and encourage working with council's advisory boards and commissions.

Spelman: Okay.

But I'm happy to ask. Smith had one of his attorneys in particular looking at this meter, and in fact I know that they sent a correspondence to the sponsor, I think more generally, but describing their concerns along the lines that I previously articulated.

Spelman: If I may frame Smith, this seems to be similar to the issue western discussing along waterfront and sound a few minutes ago. The ordinance was written relatively loosely. If you could hear it from 100 feet away, well, it's technically in violation, but that's not the way it's actually going to be adopted by the police officers who will be enforcing it. I can imagine a similar resolution going on here. When we say we want you to work with, well, there are limits on our ability to direct a manager to work with citizen volunteers, and there may be a need from a procedural point of view to enforce that bright line between policy and management. But you've -- the city staff do have the discretion to blur that line if it's going to be in the best interests of the city.

I'll ask Kerry Grace to address it because she's been looking closely at the proposed resolution. But I think I understand what your point is that -- well, Kerry, would you address the issues that we feel

there are in terms of the charter division of responsibilities for council and manager.

Certainly.

And then specifically, though, address the councilmember's inquiry about --

Spelman: Interpretation of that on a case-by-case basis.

Resolution.

I'll certainly try. Kerry grace, city of austin law department. In a nutshell, yes, the charter does set up very broadly a line, between the council government line and the authority of each of those pieces. Council is the policy body, in a nutshell. Staff is the programmatic piece. The managerial piece, the assistive piece. Unfortunately, the charter doesn't go into any further detail than that. What is programmatic versus what is policy is sometimes easy, sometimes not. The manager, and councilmember spelman have both articulated the issues very well. Certainly that's the crux of the legal piece. After that, it is-becomes more of a policy discussion or a managerial discussion about where does the policy line stop in the programmatic piece start. This document that's at issue today, we all could agree that a couple pieces were more programmatic than others. After that it got harder. So in essence, it depends on how the manager manages as to -- as to whether or not he believes a particular directive to be programmatic. And that, again, is less of a legal discussion and more of a -- more of a policy and administrative discussion.

Spelman: So in the same way that a police officer has the discretion as to whether to enforce the i-phone from 100 feet away, the manager has the discretion as to how he's going to burp the meeting of managerial and administrative versus policy in the context of this particular group.

I think that's fair, yes, sir.

Spelman: Okay. So let me go back to the manager, if I could. Okay, so from your point of view, is it at least conceptually possible that we have the following scenario: A subcommittee of the animal advisory commission has been delegated to work on parts of this implementation plan. Some people from staff have been delegated and they are sitting in a room together on hashing out the words. Is that something which is conceptually reasonable from your point of view?

That's certainly what we will attempt to do, being mindful of what the attorneys have said.

Spelman: I understand. Thank you very much.

Cole: I have a question, mayor.

Mayor Leffingwell: Okay, let me just say first of all, I intend to support the motion. I realize it's a little bit squishy and vague, but this is not a final product. This is basically a director to go forward and develop a

final product. And that will be vetted in a number of venues and finally back here at council. And if it's necessary to make changes, for example, the council might determine at that time that -- the recommendations of the advisory commission weren't taken into account in the development of what we're seeing before us, and we could make appropriate changes at that time. So there are plenty of opportunities to make sure that the final product is what we want. This is basically kind of a loose direction about how to go about developing that initial product. Councilmember cole.

Cole: I wanted to add i support the resolution, my concern is we have policy direction coming from the citizens and the animal advisory commission that are not supported by. Staff. I think we're in a win-win as long as staff and commission are agreeing. But if we have a situation where they don't agree and they are trying to figure out what to bring forward, I think we need to be clear that the opportunity for citizens to bring things forward to council in terms of adoption is, you know, at our public hearing or through citizens communication, but we still do have fundamentally a city manager form of government. And so I don't want there to be confusion as in all of our boards and commissions, i don't see any major difference in terms of our directive to them to work with staff, give them information, do research, encourage them to adopt their policies and positions, and then to the extent that staff does not agree with that, we hear from a few people. And sometimes we change that. But I don't want to be blurry about the fact that the city manager and his staff are in charge of the process of implementing the recommendations that are given to council.

Mayor Leffingwell: Mayor pro tem.

Martinez:, SORRY, MAYOR. It's an interesting conversation and line of thought, but quite frankly, if the city charter doesn't allow us to direct the city manager to sit down and work with people, then we have a serious problem in our charter. It just blows me away. This is no different than anything else we adopt. When we say make the speed limit 55 miles an hour, you put it at 55 miles an hour. But if you are going 56, you've broken the law. But I don't know of anybody that's gotten a ticket for going 56 miles an hour. Again, it's very simple. The council reserves the right and the authority to death direct the city manager to implement programs and eve specific. Just like saying 100 feet. 100 Feet is 100 feet. There's nothing vague about that. But that's not the council managing, that's the council taking a position. And what we're doing today is taking a position. And austin's our position as a legislative body is not physically agreed upon or supported by -- fully agreed upon or supported by staff. When this body acts, administration puts it into place, period. So I'll be supporting this motion and if we need to do a charter amendment in a few years, I'll support that too.

Mayor Leffingwell: Councilmember shade.

Shade: I'm thinking if the public is watching, this is -- what is going on up here? I mean we have countless examples. We had a citizens task force here just awhile ago talking about what they are doing with water conservation. Not too long ago we had a stakeholder group that was specifically pulled together to work with the city manager on bike fest and how to deal with that in a better way. I think the challenge in this particular arena, we've had a commission that has had a very narrow scope which awhile ago I was one of the co-sponsors to expand the scope of what the advisory commission for

animals was to do. Then now they have a broader scope. They are very excited and enthusiastic and empowered and they want to take a next step. I think that adding additional related partners is important because as many of you in this room, and Ryan, you and I have had numerous conversations about it, you know how important it is that sometimes these citizens advisory commissions don't include everybody because we're seven people and we only get to nominate seven people, and this particular commission is hard because we have a legislative mandate to fill specific slots. If you are not on this commission and you want to have your voice heard in this process, we need to make sure that occurs. I think that the debate about whether the wording is directed to work with the advisory commission and related partners to create the implementation plan, or alternatively one of the other ideas suggested was that staff do the implementation plan and regular monthly updates to the commission. We're splitting hairs here. I think I'm going to go ahead and support this, and understand the reason why there is this angst is there's this feel that perhaps staff and the voters of constituents have not worked as well together as they could in the past. Let's move forward. I would like to support this. There was one thing I wanted to add to this which was to make a slight amendment, which is to -- to add -- present present implementation no later than March 1, 2010. To include fiscal notes. I want to make sure we don't forget that.

Morrison: It was my understanding an implementation plan would include a --

Mayor Leffingwell: Councilmember Morrison.

Morrison: I'm sorry.

Mayor Leffingwell: Do you accept the proposed amendment?

Morrison: It was my understanding it already included that but I would make it --

Shade: Implementation plan and fiscal notes to council no later than March 1, 2010. I think we need to look at all that.

Morrison: That's fine.

Shade: Thank you. And I appreciate adding -- I don't know if this was in the version in the original posting, but there will be multiple opportunities for this to be presented to the public health and human services committee as well, which I think is a great addition. Thank you.

Mayor Leffingwell: Mayor pro tem, do you except the friendly amendment by councilmember Shade? With additional direction to present this to the public health and human services committee before it comes back to council. Okay. All right. All in favor say aye.

Aye.

Mayor Leffingwell: Excuse me. City manager.

Thank you, mayor. Again, I want to restate our commitment to working with the advisory commission and carrying out council's directions that we're about to get here shortly to the best of our ability. However, particularly in regard to the in-louvre questions you were asking earlier, and I know it's been dealt with in the resolution, but it makes the point of concern that we might have to deal with along the way, so I want to refer to section 3 b here. And I'm going to read it. It says the city manager should ensure the animal services department is fully on board with the council's new directive to make Austin a no-kill city by saving 90% of impounded animals. Shelter management and staff should implement the council's goals of increasing live outcomes and reducing shelter intake. Makes sense to me. Here's the part. Any employee of the shelter who rejects the council's directive either through disagreement or lack of effort should be removed and reassigned. I know that's been dealt with in the resolution, but it goes to, you know, issues that could become complicated if we find other things along those lines in the recommendations. I don't know that they are there, but it makes the point that we were talking about earlier.

Mayor.

Mayor Leffingwell: Councilmember Morrison.

Morrison: I just want to make very clear, I appreciate all the conversation with the legal department over the past two days, and we did identify that one very specific, very clear point in the recommendations that was inappropriate because we certainly rely on the city manager to manage the staff and determine the appropriate actions when, you know, if a staff person is not doing their job and we hold you accountable to do that, and I know you will do that. But that is explicitly removed in our resolution.

Mayor Leffingwell: Okay, now, all in favor of the motion? It was amended by the friendly amendments by councilmember Shade, say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of 7-0. We'll go directly to citizen communication. First citizen is Walter Olenick speaking on water fluoridation.

Good afternoon, Mayor Leffingwell and councilmembers. The last time when my wife was here she mentioned a report by the Texas Dental Association that assesses the current oral health of Texas. Please bear in mind as I read a few quotes, that the main premise in which water fluoridation has been promoted is it's a cavity preventer of particular value for economically disadvantaged children who might not have good oral hygiene habits or get to see a dentist very often. The report is modeled after the Surgeon General's report on oral health of 2000. Here's what the then-Surgeon General had to say at the time. Quote, a silent epidemic of oral disease affects lower income and minorities, the poor of all ages and -- particularly vulnerable, unquote. Not a very good record for water fluoridation, which has been in place for decades in larger urban centers where most of these underserved populations reside. Also from Sacher, this quote, 80% of Medicaid eligible kids don't receive dental care because few dentists

except medicaid, unquote. And I'll add that that's still true today and it's the real crux of the problem. Fluoridated water is nothing more than a placebo. Now, four quick points from our own 2008 Texas report. One, poor oral health is widespread in Texas. Two, Texas exceeds the national average in fluoridation of municipal water supplies. Three, Texas scores worst in the nation in rate of untreated tooth decay among children. And four, half of Texas children eligible for dental services under Medicaid never access those services. Can we make some connections here? Water fluoridation is widespread in Texas cities and so is severe tooth decay. How can we continue to spend hundreds of thousands of dollars each year on the failed social experiment of water fluoridation when those same funds could be turned to more effective purposes. Toothpaste and toothbrush, hygiene and diet education, vouchers for dental visits. There's many, many possibilities. I urge you to consider them. By the way, today is my 67th birthday. I've been drinking fluoridated water for nearly 40 years. Nonetheless, I have still managed to lose all my teeth. I hope with your help by the time I am 68 I will no longer have to drink use costly, fluoridated water. [Applause]

Mayor Leffingwell: Thank you next speaker is Jake Stewart speaking on Austin climate protection plan and clean energy.

Questions, thank you, Mayor. I won't be removing my teeth. First of all, I want to commend this Council. I'm here predominantly on climate protection. My apartment in Austin will as you know well, Austin is watched not only in the nation but around the world for how it acts on these global issues. And now is more a pressing time than ever having studied climate. Signs for over 10 years, I can tell you we're at a window of time that is very critical, and it's a small window of time. There's also enormous opportunity to address those challenges while creating clean jobs, addressing health issues, and addressing energy security. So I stand here as a citizen today. Many of you know I left the climate protection program a couple months ago. Predominantly because I believe I can be more effective as a citizen voice. I'm also representing an organization that I'm launching called Green Veterans that is a group of veterans dedicated to advocating for localized energy security, climate security and green jobs, all of which are addressed by the actions of reducing greenhouse gas emissions. The organizational and leadership challenges of the program are well known and I'm not here to speak on that other than to commend the Mayor and his staff for taking the bull by the horns as the program mission is too important to fail and I'll be here to support it. The second week of December, the world will be convening and converging on Copenhagen to address global climate change, and hopefully produce solid action. Myself and tens of thousands of other citizens, leaders and advocates will be going. And I will be carrying the message, I hope, of a city that continues to lead the way on these issues. As we've seen in the past, clean energy or energy issues as a whole is a complicated matter. We've made some very good progress and I will be very sad to see Roger Duncan leave. I think that he leaves some very large shoes to fill. I'm glad we're doing a national search. Again, my goal is to support that trajectory. I also want to address a lot of the media that's been coming out with the messaging that somehow clean energy hurts poor people. And I do not think -- while these are issues that need to be addressed directly and there's some validity to some of the concerns raised, we need to be cautious of where the message is coming from. I do not believe it's coincidence that alliance with the state and national P.R. campaigns from the coal industry. And so I think that addressing the issues in a level-headed way as we've been doing is adequate, but also to be cautious that there are some firms that are acting on behalf of other interests.

So I leave with, again, a positive expectation, some optimism about where we're heading and thank you for your service to the city.

Mayor Leffingwell: Thank you, Jake. Glenn Gadbois is speaking on great public spaces.

Good morning Mayor and Council. I have a few of my friends here to help start a conversation that we hope is both satisfying and entertaining as citizens' communications. I'm Glenn Gadbois and I want to help Austin become known for its great public spaces.

I'm Greg Esparz with the Farmer Market and here with Great Public Spaces, and the Great Public Spaces initiative is something that sprung from the 2 Action Summit in June where there was recognition of groups like the Continue Parks Foundation, Family Children Forces, I could go on and on. Many representatives of these groups here, Design Commissioners Court et cetera. Heck anything of the groups shaping and advocating for Austin's public spaces, existing public spaces and the future of Austin public spaces in a lot of ways. So what we got together to do was to express on a coherent focus what are the qualities and elements of great public spaces and why are they so important for Austin as a city and as a community. And we produced.

Call for Great Public Spaces and a set of principles which we'll pass out to you all. We started talking and got together -- moving on.

Good afternoon, even.

Mayor Leffingwell: Would you hold just a second. I've stopped your time. You know, I have to point out that it's not according to Council rules for persons not signed up to speak to speak at Council meetings. I made a couple of exceptions, but I feel like I have to point it out so eventually folks will get the word on this. So go ahead and proceed, but be advised for future reference that you have to sign up to be able to speak.

My name is Eleanor McKinney. The call for Great Public Spaces that you have in front of you is a call for long-term commitment by citizens, organizations and the city to prioritize the creation and connectivity of great public spaces all over Austin. If we are to have great public spaces, we should strive for design excellence and create outstanding places for people to use and enjoy. Our goal is to educate people as to the value of great public spaces and to build a dialogue about their importance to community life. We hope to support those groups that are already doing great work and to reach out to new groups that bring fresh energy to the process. To this end we will be hosting brown bag lunches with staff and community groups to identify barriers and work through possible solutions. Each one of you will be invited to present your own ideas about how we can all create great public spaces in Austin. Thank you.

Austin has great bones in our parks and our roads. But more is needed to make them welcoming and eventually inspiring. The city has a role, but so does everyone else. Businesses and developers, neighborhoods, citizens, et cetera. We'll come back to you requesting more formal action as we have

had more community conversation to talk about how specifically the city can have a role. In the meantime, if you are interested in this issue, please let us know and we will keep you informed. [Buzzer sounding] and we invite you to come to the brown bag lunches with any topics you have or to make a presentation yourself. Thank you for your forbearance and we didn't understand we were imposing on your rules.

Mayor Leffingwell: You are not alone. But thank you. Thanks to all of you. [Applause]

Mayor Leffingwell: Councilmember morrison.

Morrison: I just wanted to make a quick comment to you all, glenn, and to make sure you are aware that the board -- excuse me, that the parks and rec board recently passed a resolution that came to us just recently asking for a policy and implementation of actually having public spaces and parks within a quarter of a mile of everybody in the urban core and some other things and what should be in them. I hope you will take a look at that and get together with some of those folks. I think we're planning on working on that.

Mayor Leffingwell: Colin clark, water rate trap.

Thank you, mayor. Colin clark with save our springs alliances. Over the past couple of years we've been pointing out -- glaring difference in vision between them. The story is about austin energy's announcement that they will need to raise rates to avoid a \$177 million deficit in four short years. And that's coming from the city's cash cow. The higher bills stem from the rising cost of coal and nuclear power, natural gas and other fuels that produce electricity according to austin energy. Austin energy has diversified its sources of electricity including green energy and solar. That helps when the cost of natural gas and coal goes up. The article goes on to say roger duncan designed programs thinking homes requiring less electricity can keep the city from building an expensive new power plant. That is visionary and that aims to protect ratepayers from unnecessary expenses and rate hikes. My dream is all of austin's buildings create their own clean, reliable, renewable energy, but until austin energy creates a new business plan, my nightmare is that all of austin's buildings create their own clean reliable, affordable energy. Let's substitute water for energy and reread roger's dream. My dream is all of austin's buildings create their own clean, reliable, affordable water. Is that the water utility's dream? It's not, but I think they share roger's nightmare. We hear that we need to diversify our water sources and their billion dollars proposal to do that is to go one dam up the same river. If the concern is some unidentified risk, water treatment plant 4 doesn't eliminate risk because the plant's water source is a risk itself. It's a gamble with nature when climate scientists are telling us we'll have more drought and evaporation. For one tenth of the cost of water treatment plant 4, we could install 300 million gallons of rain water collection. We could train austinites in green union jobs to install and service collections systems, water reducing -- we can't have every building in austin create its own clean, reliable, affordable water. But this is not the water utility's dream and it won't ever be if you commit the big money to treatment plant 4. The utility and the ratepayers will be saddled with hundreds of millions of dollars a and the 15% rate hike will just be the beginning of the debt trap that you have the opportunity to avoid. Please consider

this in the months to come. Thank you. [Applause]

Mayor Leffingwell: Winston michael ray. Speaking on economic stimulus program for the city of austin. mayor, first of all i want to say my obedience to almighty god. That's how I've been reared and I want to thank god for allowing me to make a quick but strong -- I would like to think strong presentation to this distinguished body. Just as my topic says, economic stimulus package. I've been in this community for the past ten years, six months, two weeks and two days come this saturday, NOVEMBER 7th. And quite a few people in the area knows me. I'm partial to the homeless. The underdogs. For the the past -- recently this year alone, I've been trying to reach tout the city fathers to hear a plan that i think not only will help the unemployed, the homeless here in austin but worldwide. Before I came today, I passed out this flier to as many homeless people as I could have before I came out. I was hoping it would be here by now, but I'm sure they will get word, because I'm sending ought the call today, this DAY, THURSDAY, NOVEMBER 5th, 2009, For all the texas to stand with me tomorrow, FRIDAY, NOVEMBER 6th, 2009, At the state capitol. We want to stage a one-day massive demonstration to drama ties poverty. Now, in so doing, it's kind of revisiting the days of the civil rights movement, I only hope this need one day, this flier, which you gentlemen and ladies will get a copy of, we're planning to -- we're prepared to introduce a 100 billion, b as in baby, as in boy, silver sales marketing campaign worldwide, as you can see, silver rights movement. It's time that was allotted me in texas, as I said, was ten years, six months, two weeks and two days. mayor that is correct matches with your inaugurate date. By the way, we have a lot of marketable information on you we're going to market as well as on the governor and quite a few distinguished people including russian president putin. This shirt will bring in a lot of money. The purpose of this movement is to create jobs. We're going to generate \$100 billion starting with this image. I have to get a better shirt, but I think you got the idea. New kgb. Campaign goes barack, kingdom for godly businesses. What I need from you, mayor, is to immediately meet with me on this and i would say thanksgiving. I would like all of city councilmembers to go with me to let it be known that austin, texas is the first city. When I leave this building today, I'm going to every poor person -- [buzzer sounding] -- in this community to rally up this community. We're determined to stand on the capital grounds tomorrow. I'm sending out the call all over the state, dallas, houston, austin.

Mayor Leffingwell: Sir, year time has expired.

To dramaize this issue and I would like to think texas would be honored --

Mayor Leffingwell: Thank you, your time is up.

Thank you, mr. mayor. And I hope you get with me soon. Do you mind if I pass this to each one --

Mayor Leffingwell: Just riley and he will pass it down. [One moment, please, for change in captioners] this is taken from chapter 10, titled direct assault his on well-being. Quote, the scientific evidence of -- supporting efficacy and safety of mass fluoridation at the generally recommended level of one part per million is not as good as it ought to be, but neither is their convincing evidence that it is harmful. Unquote. I would submit that today, 40 years later, there's overwhelming evidence that it's harmful, especially to the bones and thyroid. Quote, perhaps the strongest argument is that individual treatment

is simple and can be supplied cheaply on public funds for those wishing to use it. Unquote. I disagree that it's the strongest argument, but it is a strong one and in fact our home spun hero, John Henry Faulk, that we named our mine library after, named it back in 1973 before the city council when opposing water fluoridation in Austin. Fluoride pollution is a significant problem. Discharged into the air and intentional addition of fluorides in fluoridation programs makes a modest but not negligible contribution to the human created inputs into the environment. The main problems encountered are familiar ones: the once dear boundary between safe and -- boundary between safe and unsafe levels are fuzzy, some individuals are more sensitive than others, some may act in combination with other pollutants to do damage at concentrations where the fluorides alone would not be harmful. Unquote. I would adhere that everything that he just said about health threats from fluoride, environmental pollution, applies equally to fluoride ingested. Fluorides have been shown to concentrate in food chains, significant ecological -- remember he has just explained our input through intentional fluoridation as not negligible. This is President Obama's science advisor speaking. Would Obama hire a dummy for the job, I don't think so. Thank you. [Applause]

okay. Thank you. Next speaker is Ronnie Gjemere [reese] speaking on peace and freedom, generally speaking.

Mayor, I celebrate Halloween all week, but my name is Ronnie Reese. Saying yes to Republicans Deborah Medina for Governor and no to drugs. For growing brains. Obviously. Kids, cherish your childhood. Pay attention. We all miss it dearly. But we have got to stop the fluoridated suicide now. It's just got to happen. It's just so obvious. But anyway, build a burger. Slick Perry is dissolving politically more horrific truths about death and total debilitation of young girls from Gardasil, now they want to force it on little boys, too. No, we're not going to allow that to happen. No, we're not going to be fooled again about Slick Perry shifting schemology to shove the Trans Texas Corridor down our throat. Again vote for Deborah Medina. No Slick Perry slipping and sliding while shoving sex drugs into our kids while serving his build a burger treason with the Trans Texas Corridor under some other name again. That's -- and supposedly our only other choice, according to the criminally controlled media, not ignoring of course Deborah Medina long time Ron Paul enthusiast, is the other stooge for build a burgers, Senator Kay Baulout Hutchinson. Vote Deborah Medina instead. Senator Baulout loves bailing out those bank centers and Mexican criminal gangs from our ongoing war against our borders by pretending that our war on pot smokers and hemp enthusiasts is okay somehow. Look, all we need to do to stop the killing on both sides of the border is freedom! Absolutely freedom for farmers to grow anything free from the dictates of organized crime thugs and our criminal government is the answer and of course President Obama can with such executive orders overnight single handedly, Mexican, Columbia, Afghanistan, Burma the entire planet from the tentacles of organized crime with merely Obama signing executive orders declaring absolutely freedom for farmers here. So as to stop the killing to instead share the profits with the citizen farmers. All will become richer overnight no matter what they grow because of the inevitable market forces of supply and demand. For example if you and your neighbor farmer both grow carrots, he decides instead to go hemp, by golly that means the other carrot farmers like you the profits go up the resulting overnight explosion will help save us all from the truly evil GMO foods which by the way cause cancer and sterilization. Ron Paul continues to keep on keeping on. [Buzzer sounding]

(888)322-1414 for weekly updates. for ron paul for -- for alex jones.

Mayor Leffingwell: Okay. Time is up. Gus pena. You have five minutes.

Good afternoon, mayor, councilmembers, gus pena, proud united states marine corps veteran during the vietnam war. Lord, we lift up all of the veterans and the -- their loved ones left behind who have answered the call to duty on land and sea and in the air because of your kindness towards us, we live in freedom today through the sacrifices of our veterans, military veterans have made, we thank you for letting us live in this land where only you and love of family take precedence over love of country. We thank you for liberties we now enjoy because of the courageous service because of our military veterans. Bless us, bless our land that we may always -- that we always may be the land of the free and the home of the brave in jesus name we pray, amen. Rodriguez fellow classmates and graduates from johnston high school, alex, the last infantry man to die in vietnam. Even though this is veterans day and not memorial day, it is also a special time for families, friends, fellow veterans to only recognize current military members and also fallen comrades. Alex served in vietnam, was my classmate, my adopted brother at zavala elementary school, allen junior high and high school. Also toby rodriguez, my fellow classmate, fellow united states marine corps veteran who died in vietnam in 1969, also my classmate at johnston high school. I will inform you all that veterans need a lot of help, health care, affordable housing, real, true affordable housing, ptsd treatment, post-traumatic stress disorder treatment, reentry counseling, transitional housing and employment. 40% Of the homeless populations are military veterans, a disgrace to our country, we are the richest country in the world. This statistical data comes from the department of veterans affairs and local military groups. Military veterans don't get the services they deserve. Nobody is asking for a hand out, merely a hand up. stone, jackson, rudy, race man, trudy, carol, rock fish, homeless veterans that I met here on the streets in austin, texas, all homeless veterans on the streets. Veterans need help and encourage you to embrace, hug and thank our military veterans coming back from iraq afghanistan. Whatever your position is show them your appreciation, they are fellow americans, god bless america, got mess the united states marine corps. BIRTHDAY, NOVEMBER 10th, 2009, We are 234 years old, will be. We were born in november the 10th, 1775, I WOULD ALSO Ask everybody else to please participate in the veterans day parade this coming NOVEMBER THE 11th, NEXT Wednesday. Mayor, thank you very much for the comments that you made to pope, the veterans services officer. You are a military veteran, I would ask everyone to participate again. They served our country with honor. And kept us the land of the agree and the opportunity to run for city council and mayor and judge whatever you want to be. Mentors and tutors for the students and classmates in aisd, they need our help, keep them from joining the dropout rate. Mayor leffingwell I will wrap this up quickly, thank you. Mayor pro tem martinez and also the city manager marc, I thank you for and the issue in the east austin. God bless america, support our military veterans thank you very much.

Mayor, I have a quick question. Councilmember cole.

Cole: You gave a static of the homeless population that were veterans from the and i just didn't catch it.

Yes, ma'am. 40% Of the homeless population are military veterans. You know what is grown, also,

veterans with families, also, please support our veterans. Thank you very much.

Thank you. [ Applause ]

next and last is linda green speaking on what's in your dillo dirt, what's in your water.

Anybody who watches t.v. Has probably seen an ad that says what's in your wallet. Well, relative to what's in your wallet it's also what's in our water because our bodies are made up of mostly water. I have always heard this phrase you are what you eat. You are what you eat, you are what you drink, you are what you breathe, you are what you bathe in when it comes to fluoride. We at fluoride free austin are concerned about all of these issues. In trying to fight this fluoride waste in our water for the past year we have also come to realize that there's probably a good deal of fluoride in dillo dirt, unfortunately, I haven't had any success in contacting jody slagel of the city water utility department or kevin anderson and having them tell us what the results are of fluoride, heavy metals, and pharmaceutical drugs in our water. I do have a report on internal memorandum from 2005 which talks about various bio solids that are -- that were studied in sludge, but I don't see anything about heavy metals, pharmaceuticals or fluoride. I would urge that all of y'all pursue this question because -- just because it hasn't been tested doesn't mean that it's safe. And -- and last night I was watching charlie rose interview al gore and he says it's not a political issue about global warming, it's a moral issue. I believe this is the case, too, of fluoride. This is a moral issue. We have lobbyists who for big agri and big agri has a waste product and so our government starts representing big agri. One of the city council aides, I'm not going to mention who, said that our council member is satisfied with the fact that the has signed off on the safety of dillo dirt. I'm not satisfied that just has signed off on the safety of dillo dirt that they are representing our needs, our health, our safety, our well-being I'm -- I wish that I didn't have to do all of this research. I wish that I could take this little box of fluoride project and recycle it and work on organic gardening or some other good project and I know that you all, you six city council members and the mayor, tonight, could get together and vote fluoride out of our water. It's a toxic waste. [ Applause ] and -- and we have a website, [www.fluorrightfreeAustin.com](http://www.fluorrightfreeAustin.com) . We're going to get more and more people. We're going to get young people to come speak to you or you could just vote this product, save us a lot of money, and maybe put the money that we save into our good projects that I know y'all work on. You are working on bicycle projects. You do a lot of good things, so why waste your time in defending fluoride in the water. We need some answers. Thank you.

Mayor Leffingwell: Thank you. [ Applause ]

it's still poison. Read your [indiscernible]

Mayor Leffingwell: Those are all of the speakers that we have signed up to speak in citizens communication. So without objection, the city council will go into closed session pursuant to 071 of the government code for consultation with legal counsel to take up three items. Item 48, concerning labor negotiations with the austin fire department; item 49, concerning northwest austin municipal district number 1, et al, versus the city of austin, et al; item 50, concerning city funding of youth sports opportunities. Is there any objection to going into executive session on the items announced? Hearing

no objection, the council will now go into

Mayor Leffingwell: We are out of closed session. In closed session we took up and discussed legal issues related to items 48, 49 and 50. No action was taken. 00 time certain item, item no. 51. And -- and we have a presentation from staff to mr. newman.

Good afternoon, mayor and council, I'm bill newman with the public financial management, serve as financial advisor to the city. One of our partners is going to hand out a little book that we're going to go through. I'm going to make introductory remarks are, don henderson will go over the transaction with you. We're here to talk about the sale of [indiscernible] water and wastewater system revenue refunding bonds. As you will see on page two these are being issued to respond to some short term debts, specifically 166 million of your tax exempt commercial paper. This was a negotiated sale, as is all of the transaction that's we sell for refunding transactions. It was led by morgan stanley with a whole team of underwriter that's went with them. Your bond council is here with you today, bob with fulbright and jaworski, again don henderson is going to speak to the transaction, so I will step aside for just a minute.

Good afternoon, mayor and council, I will go over a few details of the bond transaction. Page 4 kind of gives you an overview of the market. Fairly flat market. Quite a bit of -- bonds in the market to look at. Primarily led by california to -- in the market about every week with billions of dollars of bonds. Turn to page 5, you can kind of see last year where interest rates have been. We showed two graphs, well, two lines, one showing what we call a bond buyer rbi, which is the index, reflective of where austin water utility bonds generally trade at. The other one is treasury yields. As you see, the rbi index has dropped over the last year. Page 6 gives a little more detail, specifics of the bond transaction itself. Here we have the dates of the maturities of the bonds, actual maturity amounts, interest rates, yield. Most importantly what we would like to present is what was the true interest cost of this transaction and in bold at the bottom you see there's a 4.56%. The last page, page 7, shows -- is a graph that shows interest rates on similar bonds, austin is sold since 2000. Transactions for water utility bonds generally have a maturity of 20 to 30 years, this one was a 30 year deal. The yellow spike shows the -- the current transaction compared to historical transactions, a very good -- a very good outcome for the city in this market. You know, a transaction like this involves quite a bit of time and energy by city staff and I would just like to recognize the people who did spend a lot of time working on the -- on the documents, also a -- working with the rating agencies, got dave anders, art [indiscernible], tim [indiscernible], lelah farside and the comptroller's office all spent quite a few hours on the details. Unless there are any questions, I would recommend that the city approve this transaction.

Mayor Leffingwell: Any questions? I will entertain a motion to -- to approve the ordinance authorizing the issuance of these bonds. Councilmember shade moves to approve. I believe that was mayor pro tem's second. Is there any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: The vote is 6-0 with councilmember spelman off the dais.

Congratulations, mayor and council, that was a good sale. Thank you.

Mayor Leffingwell: Thank you for the good work, mr. newman. So we will now move to our zoning cases. Time certain of 2:00 p.m. Mr. guernsey?

Thank you mayor and council, my name is greg guernsey, director of the planning development and review department. I would like to go through 00 items where the public hearings have been closed. These are for zoning ordinance and restrictive covenant amendments, the first item that I would like to offer for consent is C14h-2009-0012 - baker-allen house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 2402 harris boulevard (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district first reading ready for consent approval on second and third reading. 53 . C14h-2009-0014 - for the property located at 1530 north wood road. Sf 3 h combined district zoning. 54 . C14h-2009-0015 - gardner house - appre second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 2418 jarratt avenue (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district zoning. 55 . ralph and anna cloud house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 1718 summitview place (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district zoning. 56 . C14h-2009-0021 - jackson-novy-kelly-hoey house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 2406 harris boulevard (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district zoning. 57 . C14h-2009-0022 - thomas house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 1603 nils road (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district zoning. Item no. 58 . C14h-2009-0023 - webster house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 706 oakland avenue (shoal creek watershed) from multi-family residence-moderate high density-neighborhood plan (mf-4-np) combining district zoning to multi-family residence-moderate high density-historic landmark-neighborhood plan (mf-4-h-np) combining district zoning. 59 . C14h-2009-0024 - aycock house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 1405 wathen avenue (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark (sf-3-h) combining district zoning. 60 . C14h-2009-0027 - potter-pincoffs house - approve second/third readings of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 2607 wooldridge drive (shoal creek watershed) from family residence (sf-3) district zoning to family residence-historic landmark -- this is sf 2 h, not what you see in the agenda, sf 2 h zoning on that property. Finally item no. 61 . C814-2008-0087 - south shore district pud - approve third -- there might be a postponement request by council with some direction? We could do that with the consent or --

Mayor Leffingwell: Say that again.

Number 61 staff understands there might be a council postponement request on that item. We can take that with consent if you want to give us direction on the consent agenda or go through the consent agenda on that --

Mayor Leffingwell: Let's just see if councilmembers are planning to ask for postponement of that.

Cole: Yes, mayor, I am. It's totally at your prerogative whether we do that now but I do plan to give directions to staff.

Let's do that later then.

Cole: Okay.

Mayor Leffingwell: So i will go back through the consent agenda. The following items are approved on consent, second and third readings. 52, 53, 54, 55, 56, 57, 58, 59, and 60. That is the consent agenda. So motion to approve. Just one second. A motion to approve by councilmember morrison, seconded by mayor pro tem martinez, councilmember shade.

Shade: I'm just curious, I haven't seen a list like this in a while where it's this many, you know, historic zoning cases all at once. I'm just having to ask why all in a bunch like this or is this -- is there some reason for it?

Typically, when you get towards the end of the year, most people are interested in filing historic zoning to see if they can get a tax credit for the following year. So you probably see more towards the end of the year than you might see at the beginning of the year. I think the last time a lot of cases didn't have the ordinances prepared so we brought them all back at this time because they are fairly easy to do, fairly repetitive and we have them all grouped together and bring them back at the same time.

Shade: Is this from a tax value standpoint just a really large impact year? Or the normal thing -- obviously --

actually, council -- a few councils ago limited the amount of value, so it's not nearly as much as it used to be. But this is a reduction in their taxes, I can bring steve up to go through those different details --

Shade: This is the first fall that I have been on council that I can remember, I was a little bit in a haze last fall. I was curious, it struck me.

It's the time of the season that you probably see more historic towards the end of the year --

something to expect and it's normal, not to be alarmed.

Not to be alarmed.

Shade: Okay, thank you.

Mayor Leffingwell:.

Mayor Leffingwell: All in favor of the motion say aye.

Aye.

Any opposed? That passes on a vote of 7-0. Councilmember Spelman? Okay. Guernsey, I think we're going to have a fairly short consent agenda on the public hearing cases, can we go ahead and run through that.

I can go through the remainder. These are where the public hearings are open, possible action. The first item that I can offer for consent under this portion of the agenda is item no. 62H . 02 - met center ii pda amendment - conduct a public hearing and approve an ordinance amending chapter 25 of the Austin City Code by rezoning property locally known as 6800 Burleson Road (Carson Creek and Onion Creek watersheds) from limited industrial service-planned development area-neighborhood plan (li-pda-np) combining district zoning to limited industrial service-planned development area-neighborhood plan (li-pda-np) combining district zoning to change a staff the planning commission's recommendation was to grant the lipda-np combined district zoning with a change to the conditional zoning. The application is actually -- has actually amended their request and actually reduced the area to be considered for rezoning, so it's actually smaller than what was considered originally by staff and the commission. That revised ordinance is on your dais in yellow. That's reflective, I think, of removing approximately 20 acres from this zoning change. And so we could still offer this as consent as recommended by the commission. But just for slightly reduced area. That's item no. 62. 63, I believe you have one or two people that may have signed up for item 63.

Mayor Leffingwell: I do have, that will be pulled off the consent agenda. Item no. 64 Ph . C14-2009-0071 - arrow a/c - conduct a public hearing and approve an ordinance amending chapter 25-2 of the Austin City Code by rezoning property locally known as 35 Service Road Southbound (Walnut Creek Watershed) from neighborhood commercial (lr) district zoning to general commercial services-conditional overlay (cs-co) combining district zoning. The zoning and platting commission's recommendation was to grant general commercial services conditional overlay or cs-co combining district zoning. It is recommended to you by staff and the commission. Since the zoning and platting commission's action, on their October 20th agenda meeting, where they recommended this, the applicant states that he agrees with the zoning and planning commission's recommendation, but would like you to consider adding three additional uses to this request as permitted. Those are funeral sales, automotive rental and automotive sales. So I just point that out to you. I don't know if the applicant is here or not. But they the applicant would certainly like for you to consider that.

Mayor Leffingwell: That's offered for discussion, correct? 64?

Right now, I'm not aware, mayor, that anyone is signed up --

Mayor Leffingwell: No, no one is signed up.

If you would like we can discuss that item.

Mayor Leffingwell: I think with the changes we probably need to discuss that. So pull that.

Okay. 65 Ph . C14-2009-0077 balcones place condos - conduct a public hearing and approve an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 5011 balcones drive (taylor slough north watershed) from general this is a discussion postponement request. Mayor, we have a neighbor that would like to request a postponement of this item. And the -- the applicant would also agree to postponement, but not to the same date. So this is a discussion postponement. 66 Ph . C14-2009-0106 - rosewood neighborhood planning area vertical mixed use building (v) zoning opt-in/opt-out process - conduct a public hearing and approve an ordinance amending chapter -- staff is requesting a postponement of this item to your december 17th meeting. The city planning commission will consider this at their december 8th meeting. So staff is requested a postponement of item 66 to DECEMBER 17th. 67 Ph . C14h-2009-0017 - murray-hatfield house - conduct a public hearing and approve an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 32nd street (waller creek watershed) from family residence-neighborhood conservation combining district-neighborhood plan (sf-3-nccd-np) combining district zoning to family residence-historic landmark-neighborhood conservation combining district-neighborhood plan (sf-3-h-nccd-np) combining -- district zoning. The planning commission recommendation was to grant the sf 3 hncdnp on first reading only. That concludes the items that I can offer for consent at this time.

Mor Leffingwell: The consent agenda for those items where a public hearing has not yet been held will be to close the public hearings and approve on all 62, and to -- to postpone until 66, and to -- to close the public hearing and approve on first reading only item no. 67. So is there a motion to approve the consent agenda? Motion by councilmember spelman. Seconded by councilmember shade. All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of 7-0. And that brings us back to item no. 61. Councilmember cole?

Yes, mayor, I would like to move to postpone to third reading to december the 10th, 2009. And direct staff to finalize the zoning ordinance by NOVEMBER 16th, 2009. And direct staff to include the following language in the final draft zoning ordinance to address the affordable housing issue. First, there is a total package in the amount of \$3,148,000. This package includes a combination of a fee and affordable

units on site in the amount of \$358,000 and a displacement program in the amount of \$90,000. \$3,058,000.

One third of the amount, 1,140,000 to be dedicated to onsite units at 60% of mfi. One third of the amount, again 19,140,000 to be paid as a fee to the austin housing finance corporation. This fee will be used to be in the area designed in the east riverside oltorf co neighborhood plan. In addition, a priority will be given to provide home ownership. Are you still with me, greg?

Yes.

Okay. The remainder of the amount again, 1 -- one million-900-140,000 to be paid to the corporation to provide affordable housing in the city. Priority will be given to providing affordable housing for senior citizens. The fee shall be paid at the time of the site plan approval for each unit. The fee amount per unit is \$1,682,000. All of the onsite units shall be included in the project prior to the approval of the final site plan for the land area within the p.u.d.

As I understand it the motion is to postpone until december 10th with the ordinance finalized by november 16th and that a 148 million be allocate for affordable housing. And one third with a displacement component of 90,000 subtracted from that one third at 60% mfi, one third is a fee to ahfc, for housing in the east riverside oltorf neighborhood plan area, and the remainder a fee paid to ahfc for all city affordable housing with a preference for seniors. And other conditions with regard to timing of fee payment in site plan approval. -- I'm sure councilmember cole will furnish that to you in writing.

Cole: Yes, I will.

She will, thank you.

Yes.

Mayor Leffingwell: So that is the motion. Is there a second.

I'll second. Excuse me.

Riley: I will be glad to second it but I would like to offer what I hope will be a friendly amendment. That is if we could just prepare some -- some amount active language. This is just to have the language ready so that when we take final action on -- on december 10th that -- that will be ready. So I would just like to ask that -- some alternate language be prepared so that we still have some time to make a decision on this by -- at that time. And the alternate language would be just a fairly simple modification that in addition to this one third -- one third proposal that's before us now, that we would also be able to consider an alternative that would instead of doing that approach would just -- would be a 50/50 approach with 50% of the units on site at 50% mfi or below and the remaining 50% to be spent within the east riverside oltorf combined naked neighborhood planning areas [indiscernible] I only raise that because there is a -- i know that there's a lot of community interest in that. My own sense that in general

the solution would be to keep the funds right there within the neighborhood. There may be extraordinary needs at this time that might justify taking some of those funds to be used for -- for some purposes outside of the neighborhood. But I think there needs -- we need to have a little bit more conversation about that and so -- so if we have these two alternatives ready to go on the -- to the december 10th then that would give us a little more time to engage in that conversation.

Cole: Mayor?

Mayor Leffingwell: Seconded by councilmember riley with a friendly amendment to do something completely different. [Laughter] prepare the option to do something different.

Riley: Slightly different.

Mayor Leffingwell: Slightly different. Okay. Do you accept that as a friendly amendment, councilmember?

Cole: You know, mayor, I have to ask a procedural question because I am making a motion to postpone with direction.

Mayor Leffingwell: Right.

Cole: And I don't think that we can actually get into much discussion about that direction, so I just can -- I think councilmember riley can give that direction, also, as an alternative and I don't necessarily have to take that as part of a friendly amendment. I just --

Mayor Leffingwell: Well, I think that -- i agree with you. I think that's correct. I think that the motion is strictly a motion to postpone with a second by councilmember riley. And direct by you and -- direction by you and additional direction by councilmember riley.

Riley: Mine would simply be a request.

Mayor Leffingwell: Well, let's say direction. Mayor pro tem?

Martinez: Sorry, mayor, I do want to -- I'm not going to try to change the date or anything. But I will not be at the council meeting on december 9th, I WILL BE OUT OF THE Cotry that entire week. I certainly would like to have the opportunity to vote on this case because of its significance. But I don't know if the applicant is okay with moving it to the -- to the following thursday, the 17th, I BELIEVE, 16th.

Mayor Leffingwell: There is a meeting on DECEMBER 17th.

Cole: Okay.

The 17th would be fine. drenner i appreciate it.

Cole: I consider that a friendly amendment, mayor.

Mayor Leffingwell: Councilmember riley? So the motion is to postpone until december 17th with still the ordinance prepared and alternative prepared by NOVEMBER 16th, WITH Direction that will be furnished by councilmember cole and councilme riley. Okay. Any more discussion? All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote 7-0.

Mayor, would you like to talk about the discussion postponement item, that's --

Mayor Leffingwell: 65 is the -- is the -- there's a disagreement about the date on which to postpone. Do we have representatives from both sides?

As they are coming up, i will read into the record. 65 Ph . C14-2009-0077 balcones place condos - conduct a public hearing and approve an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 5011 balcones drive (taylor slough north watershed) from general -- known as balcones place condos. I will let the neighborhood -- neighboring property owner come and speak to their postponement request.

Mayor Leffingwe Okay.

MY NAME IS judy McGray, I represent highland park west limited the owner of the property next door to the applicant's property. We request a postponement, we requested a postponement for two months, but we would be agreeable to december 17th. The reason we are asking for this is because we thought we knew all of the effects of this rezoning on our property and last week we discovered some new things that we did not know about. We're not developers, we're not real estate people, we don't know about zoning. We would like some time to hire an expert and see what kind of compatibility standards start to affect us if the zoning go into effect because of some little nuances in the zoning laws.

Mayor Leffingwell: Did you make this -- did you appear before the zoning and platting commission when --

I did not. At that time we had met an agreement which kind of fell through. We worked on another agreement, which was moving forward, but now I found out about some new things and the mf 3, that could make what they plan to do be considered residential which would affect us with compatibility standard and i don't understand all of that. Neither do my partners. We would like a little time to hire an expert, find out how this will affect us because we're going to be giving uprights, perhaps, that we already have.

Mayor Leffingwell: My guess is that you can probably find that out pretty quick how it's going to affect you. But let's hear from the applicant and see if he's agreeable to that date.

Good afternoon, mayor and council, I'm jim bennett the owners of the property that's -- represent knowledge the owners of the property. We feel that the december postponement is an excessive amount of time to do the research. We're aware of council's policies for the postponement on first request. We would request that the council consider the postponement to the 11/19 meeting of council.

Mayor Leffingwell: 11/19. What are the other meetings that we have? So the next meeting is DECEMBER 10th. Council, do you have any --

[indiscernible]

Mayor Leffingwell: Yeah, so --

[indiscernible]

mayor and council, I just want to let you know that the adjacent property owner that just spoke also submitted the petition, we have determined it to be a valid petition against this rezoning request at this time. So I just wanted you to consider that when you think about postponing this, that it would take an affirmative vote of six votes to override the petition that's been filed.

Mayor Leffingwell: All right. Council, I would suggest that we could -- november 19th it two weeks. Seems like it could be adequate time to gain additional information. If that is not the case, when we come back on the 19th, I THINK WE CAN Always consider an additional postponement. Council, excuse me, mayor pro tem martinez and his microphone moves to postpone UNTIL THE NOVEMBER 19th. Is there a second? Seconded by councilmember cole. All in favor say aye?

Aye.

Any opposed? That passes on a vote of 7-0, we are postponed until NOVEMBER 19th.

Shade: Just to reiterate. If you don't get your information that you need, there's always the option for an additional postponement. But I think that this keeps this in motion. Yeah, would you please make sure that she -- she gets the information she needs.

Yes, I think my staff is already doing some of the research right now regarding this issue.

Shade: Good. Thank you.

Mayor Leffingwell: So --

I think that comes back to item 63.

Item 63 . 63 Ph . C14-2009-0031 - the moore redbird project - conduct a public hearing and approve second reading of an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 313 red bird lane (williamson creek watershed) from single-family residence-standard lot-neighborhood plan (sf-2-np) combining district zoning to family residence-conditional overlay-neighborhood plan (sf-3-co-np) with conditions. You may recall that there was a petition that was around 60 something percent and now it's down to about 24%. So the number of petitioners have been removed. The applicants have agreed to add a modification to their request. And have agreed to a conditional overlay that would limit the development on the property to an far of .4. On this property. I think there is still indication that's my staff has been contacted verbally, there might be additional names to be removed from the petition, but we don't have those in writing as of yet. There's not an ordinance prepared. This has only -- only before you for second reading consideration only upon your acon and t we would go forward and finalize an ordinance and bring this back. If you include what the applicant has requested we would modify first reading to include the limitation of the .4 far. The agent is here to speak to this, there might be some others that have signed up as well to speak to this item. If you have any questions i can go into further detail if you would like.

Just to simplify things about all of the talk about the valid petition, the valid petition is still in place?

The valid petition is still in place. It would affect your vote at third reading. Not at second reading. You could still approve on second reading with a vote of 4 affirmative votes could move this case forward.

Mayor Leffingwell: I understand. Any other questions of staff.

And the public hearing is still open.

Mayor Leffingwell: Public hearing is still open. guernsey, for all of that guidance. First speaker is ron thrower, who is signed up for.

Mayor, mayor pro tem, councilmembers, ron thrower representing the landowners. guernsey summed it up well. The petition has been dropped by approximately 40% down to the 24% where it is currently. It's my hope and I will require your assistance in this that you all allow me to bring this back november the 19th and it is my goal during that time to have the petition removed. There's been a tremendous amount of effort by ms. mcarthy about the condition, the landowners, 4 far, with her continued assistance, I am hopeful we can get this again I'm asking council to assist me in getting this back to council on november the 19th. I believe that's going to take action from the dais, I'm available if you have any questions.

Any question, councilmember morrison.

Morrison: Have there been any conversations about few additional constraints that are under the McMANSION ORDINANCE? That's one of the issues that came up the last time around that concerns about out of scale development and there are a few additional ones if the height limit is set back, and

side wall

it's my understanding that the primary issue was the far. I know that it is the neighborhood's desire to try TO get McMansion applied to this area and, you know, we'll be behind that effort with them. In fact, I've relayed to mcarthy that I will be glad to assist them with any comments or questions they may have proceed rally to get that underway because i believe that is going to take a code amendment and council action to get that moving, too. ULTIMATELY if McMansion gets applied to everybody down there, my client would be subject to it as well.

Morrison: I just want to note that it's my understanding that first of all that the southwood neighborhood association passed a resolution supporting that the McMANSION ORDINANCE BE Extended to include their area. And this property is -- do you know, is it actually in or just on the edge of the southwood neighborhood association?

I'm probably going to have to defer to greg.

Okay.

Councilmember, I don't know the exact boundaries of that. I mean, I could come back at third reading and provide a map of their boundaries so you could be clear. Where their declared organization boundaries are, but I don't have a map i believe in backup that details that.

Morrison: That's okay. I think that southwood goes down to stassney but jogs around in some places but I'm sure. But I am interested in supporting the neighborhood in extending that. So I can --

I request -- I can see in the support material, of the 13 or 14 neighborhood associations listed that southwood is not.

Morrison: Okay, must be on the other side then. Okay, thank you.

Mayor Leffingwell: Thank you. Next speaker is andrea mccartney signed up in opposition.

As -- well, it's loud. I did remove my name from the petition providing the developers agreed to the conditional overlay. Limiting development to the .4 gross floor area. I am willing to have that extended to my property, too. We've spoken to a lot of neighbors on the bird streets, which includes red bird, humming bird, mocking bird and blue bird and everyone -- there's a consensus to extend the -- the consensus is actually to EXTEND the McMansion ordinance, but in the meantime we would extend -- we would be okay to just extend the point far to the bird streets. That way every time a zoning case comes up in our neighborhood we don't have to go to city council to always deal with it. But everybody that I've talked to in that neighborhood does -- would really prefer the McMANSION ORDINANCE OVER Just the .4. As far as the -- as far as the southwood, it's on the other side of south first from us, so it's west of south first and we're east of south first. There used to be a neighborhood association in our neighborhood and a little bit north, but that disbanded. So we don't have a neighborhood

association. And there's also people in salem walk neighborhood association, who want to EXTEND the McMansion, too, so we're working on it, on that. Any questions?

Mayor Leffingwell: Well, just to be clear, because I thought you said that you were happy with the 4 far limitation, to all of the bird streets, we're not talking about all of the bird streets. We're talking about this one piece of property. The zoning case is for one piece of property.

Right.

Mayor Leffingwell: Just want to make sure that you understand that.

Okay. From what I remembered spelman was in that meeting on july 23rd that we were going to -- that - that the -- that the applicants wanted that point 4 extended to all of the people on the petition --

Mayor Leffingwell: There was that discussion, but we can't -- we can't vote on zoning a piece of property on a case that's not even before us.

Right. Okay. So we're just talking about their property.

Mayor Leffingwell: Yes.

And anything else changing the zoning is --

Mayor Leffingwell: Would have to be anoth zoning case.

In the future. Okay. I do understand. Thank you.

Mayor Leffingwell: Okay. Thank you. Do you have any rebuttal, mr. thrower? Okay. Discussion, council? Motions? Councilmember spelman?

Spelman: There we go. I move to keep the public hearing open, I think we're going to need it in two weeks. To approve this item on second reading with the addition of the conditional overlay of .4 far.

Second.

Mayor Leffingwell: Motion by councilmember spelman, seconded by councilmember cole. Any further discussion? The motion is to leave the public hearing open and second reading only. Councilmember morrison?

Morrison: I'm not going to support this motion. I would really like to see additional conversation about the other elements of the McMansion ordinance because I do think that we're moving toward having the McMansion ordinance here and they are not that rdenme and I think they could be helpful to the

neighbors.

Mayor Leffingwell: Okay. Councilmember riley.

Riley: I'm not going to support the motion, either, but I'm glad to see the conversations have been taking place and I'll continue to watch it as we move towards third reading.

Mayor Leffingwell: And I'll just say that I will also vote no on second reading and await developments on third reading to see if some accommodations can be made at that time. All in favor say aye.

Aye.

Mayor Leffingwell: All opposed? No. So that passes on a vote of 3 to -- 4 to 3, with councilmembers riley, myself and councilmember morrison voting no.

Mayor, I want to be clear, councilmember spelman mentioned two weeks. Was it your intent you want us to bring it back in two weeks? I thought I heard you say --

you said you would be ready for third reading on the 19th of november.

We can do that. I just want to make sure that there's direction for us to do that.

Spelman: That was my intention.

Very good, thank you.

Mayor Leffingwell: Direction to bring it back ON NOVEMBER 19th. guernsey, that take us to item 64.

That's correct. 64 Ph . C14-2009-0071 - arrow a/c - conduct a public hearing and approve an ordinance amending chapter 25-2 of the austin city code by rezoning property locally known as 35 service road southbound (walnut -- the property right now is 7 acres in size, developed with heating and air conditioning company. Previously the property had been used as a restaurant. The zoning request is from lr, which is more of a neighborhood commercial type of zoning district to cs which is a general commercial services zoning district. There is a conditional overlay that the owner is agreeable to add. Lr uses plus one cs use, construction sales and service and there's a trip limitation of 2,000 trips. The -- the owner would like to add an additional use, i just spoke to the owner's phil mcada, only two uses, I had said three in the cad. The only two uses that he would ask for the council to consider would be auto rental and auto sales as additional permitted uses on the property to what the commission and staff have recommended. The request for funeral services has been withdrawn as an additional use. The property in question is located at the southwest corner of i-35 and meadow lark avenue. Meadow lark goes back into a single family neighborhood. The council approved very similar zoning without the auto sales and auto rental on the property immediately to the south, it was known as the tex star waterproof company that is immediately to the south, also zone cs-co. If you have any questions, i will be happy to

answer them at this time. I think the agent is here to make a presentation on behalf of the applicant.

Mayor Leffingwell: Are you ready for first reading only?

We are ready for first reading only at this time. And if you add those additional conditions, they would be added in if that's your desire.

Mayor Leffingwell: mcada did you want to owe you are not signed up, but please feel free to make a presentation.

Thank you, mayor leffingwell, pro tem a councilmembers. I'm phil mcanda the agent for arrow a.c. And I worked on the case right next door. One of the reasons that -- well, one of the things we did, we met with the neighborhood, we had a different perspective from various people in the neighborhood, but one of the things that we also agreed to do was not to take access through the street directly north of us, meadowlark. We explained to the neighborhood that my client has been there for almost two years and we're just trying to basically change his zoning to make him so he can legally be there operating his business. The neighborhood has also stated to us that they are very happy with this particular business. And it's been one of the cleanest businesses and the property has been maintained. So there was no issues from that perspective. I'm available to answer any additional questions, but i do want to state if he does try to utilize any of these other uses that he chose to request, we will have to apply for -- for some type of site plan to verify that we have adequate parking because at this time and other requirements of the ldc, but at this time we didn't have any and I didn't have any knowledge of any intent to do any modifications to the site as -- as it exists at this time. We also had letters of support from the adjacent property owners. Thank you.

Just to clarify. The -- the staff and z.a.p. Recommended cs-co with the only cs uses allowed as being construction sales and services. And you are wanting to add all -- auto sales and rentals to that list of cs uses.

Yes, sir. Because the owner has approximately 3,000 square feet in the building. That he currently does not utilize. And with the downturn in the economy, he's looking for -- for basically an opportunity to potentially create additional income and the last thing we are actually right on the service road, approximately a quarter mile from the braker lane on the access road. We're not on any part of the actual neighborhood. We front the highway.

Mayor Leffingwell: Okay. Thank you, mr. mecada. Council? Councilmember shade?

Shade: I'm sorry, tell me again why you didn't ask ? Why again did you not ask for this when you came ?

There was some miscommunication at z.a.p. Where they were asking why we didn't consider doing wlo. I explained at that time that in order to do wlo we would have to have a minimum of one acre lot. And after the z.a.p. Meeting, the -- the owner actually contacted me and asked if these initially these three

additional uses could be added. And after further discussion with him, we determined that -- -- one of the uses probably wouldn't work because of parking, which was a funeral services. And so we -- that's one of the things that even as recently as now I'm asking to remove that one.

Shade: I'm not -- I'm wondering why you wouldn't ask for the other two then. It seems strange to me. You can do what you need to do with what the z.a.p. Recommendation is, correct?

We were initially going to ask for cs-gr, but staff recommended at that hearing cs-co. We were trying to maintain the similar ordinance to the property that was next door initially and maybe mr. Rustheaven can help me with this. I apologize.

Well, the property next door was the one that -- that was zoned cs-co and that's the texstar property. I don't know if you recall or not, but whether that case came in, they said we only want to make our use a legitimate legal use, they needed cs zoning as well. It was for construction sales and service, similar type of use and council granted that and then along type of uses. Staff made a similar recommendation given council's action on the property next door, we thought it was only fair and we were looking at it being consistent with that. I will note that there is a, I think, one hertz rental car business on 35 along the frontage road. I'm not aware of an auto sales business, but not too far away there was a hertz rental place, that was approved by council with several conditions about buffering, setbacks on how that operation was -- was if that's some help.

Shade: Okay. Thank you.

Mayor Leffingwell: Okay. Council, comments? Councilmember spelman?

Spelman: Move to close the public hearing and approve on first reading.

Mayor Leffingwell: Close the public hearing and approve on first reading as requested by the applicant with the addition of auto sales and service. And I will second. That motion. Is there any further discussion?

Riley: Mayor, could I -- may I ask a couple of questions. [One moment please for change in captioners]

okay. Thanks. If I may, I'd like to offer a friendly amendment that we prohibit drive-through facilities. I guess I would ask would that need to be part of the co or could that be --

yes, we can make that part of the conditional overlay to prohibit a drive-through service with this.

And the reasoning is that it is -- it is directly adjacent to single-family uses.

And the applicant agent is nodding in agreement at me.

Sure.

Mayor Leffingwell: I will accept the friendly amendment also as long as it's okay with the applicant. I frankly don't see any imperative to restrict it in this way. Mayor pro tem.

Martinez: I will support this on first reading, but I do have concerns about auto sales going in second or third reading being adjacent to single-family. We tend to run into issues like lighting overspill and it's just not a very accepted use. You know, we have enough auto dealers in this town, huge surface parking lots, in my opinion. So I'll support it on first reading, but I will have -- try to talk about those concerns moving into second and third.

Mayor Leffingwell: Okay. And there are options to control lighting that could be offered as a co, i believe? Mr. guernsey?

If they came in, they would be limited by compatibility standards if they added new light standards, that would have to be shaped so that the light source would not shine on the residential properties next door, if they did decide to add additional lighting on the property.

Mayor Leffingwell: And that's already the case.

That's the case. macada mentioned, i think he's speaking to a change of use, and as part of that we would check parking, we would check screening requirements. That lighting would also come into play at that time.

Mayor Leffingwell: Okay. Councilmember morrison?

Morrison: We do have a letter in our backup from the neighborhood association, the walnut creek neighborhood association, opposing this zoning change at all, even with the limitations not even allowing the auto use. And I find this troubling because what I see the chronology, the sequence that we have, is that first we had one small property get zoned so that it could come into compliance, and that was a bit of a struggle. The neighborhood was against that. So it was allowed to come into compliance and it was very narrowly crafted to allow that. Now we still see next another illegal use getting rezoned so that it can come into compliance, but then broadening it even beyond that. And I have a lot of trouble, especially with broadening the zoning and allowing even additional use, potentially additional uses beyond the ones that are non-complying and the city is trying to help them become complying. So with that I won't be able to support the motion.

Morrison: Councilmember shade. --

Mayor Leffingwell: Councilmember shade.

Shade: I'm in complete agreement with councilmember morrison on her assessment of that, the chronology. It is, it's so. [ Laughter ] we agree on more than people think. But anyway, I am really

troubled by the chronology as well. I feel like -- I don't feel satisfied with the answers as to why something was proposed in the normal due process, it's now adding something that's as contentious as automaker sales -- automotive sales and rentals. That's not an easy add on. That's a pretty big deal. And I'm really bothered by that not going through the process in the way I would have expected it to. So I'll be voting against it as well.

Mayor Leffingwell: Favor of the motion, which is to close the public hearing and approve' first reading only, with the one change of adding all auto sales and rentals. And the no drive-through. All in favor say aye? Opposed? Okay. So I believe that passes on a vote of five-two with councilmembers shade and morrison voting no.

That concludes the zoning changes for today.

Mayor Leffingwell: Thank you. So now, council, without objection, we will recess this meeting of the austin city council and call to order a meeting of the austin austin housing finance corporation board of directors. And we'll bring up margaret shaw to present the agenda.

Good afternoon, mr. President, members of the board. My name is margaret shaw, the treasurer of the austin housing finance corporation. We have three items before the board today for action. The first one is very straightforward, is the approval of our last regular board meeting on october 15th, the minutes from the meeting for approval. Items number two and three are related. They are tied to the preservation of 130 units of currently affordable housing that would remain affordable at 50% of median family income, which is about \$36,000 for a family of four for the next 20 years. So we have item 2 is approving an inducement resolution for private activity bond financing. The second one is to set a public hearing to -- if we were granted by the texas bond review board, that allocation to hold a public hearing and staff proposes december 10th as the item to do that. Also I'm joined today in the audience by a member of ahfc's bond counsel, mark malvo, as well as a representative of the owner of summit partners, rainer andrews are here, if you have any questions. With that I'm open to any questions.

Mayor Leffingwell: So you're proposing that as the consent agenda items.

Yes, sir, all three items on consent. I'm happy to answer any questions.

Mayor Leffingwell: Questions, council?

Cole: Move approval, mayor.

Mayor Leffingwell: Councilmember cole moves approval of the consent agenda. Seconded by councilmember martinez. All in favor say aye? Any opposed? It passes by a vote of five-two with councilmember shade off the dais.

Mayor Leffingwell: Nice and quick. So council, that concludes all the items on our agenda for the austin housing finance corporation board of directors. So without objection, the meeting of the ahfc board of

directors is adjourned and we'll call back to order this meeting of the austin city council. And I believe, council, that we have no more items to 00 public hearing. 30 live music and proclamations, and the 6:00 public hearings. I believe I can say that we are in recess -- the council 00 with the proviso that some of us 30 live music and proclamations. So we are in recess.

We have a special treat tonight, the austin lyric opera, they are you a putting on an opera, opening night is saturday night, invite all of you to, if there are tickets still available, to look into that and come out and join us. on saturday. And I guess one of the reasons I'm shoesias particular about this is I'm actually in the opera. As a matter of fact, I play a leading role in this opera. I don't sing but I do play a leading role. Before we introduce the music, i would like to recognize a few folks out here in the audience today that are prominent to bringing opera to austin, texas. And the first is steven scaggs, who is the president of the board of directors of the austin lyric opera. Steven, stand up. Thank you. [Applause] joanne christian, the chair of the board of directers. Thank you, joanne. [Applause] and my fellow honorary co-chair, also a board member, amelia and her husband bill. Thank you. [Applause] and eva, board member. Is eva here? Okay. [Applause] and last but not least, certainly, kevin patterson, the general director of the austin lyric opera. Let's give them all a hand. [Applause] they've been praised by the new "the new york times", the boston herald and new york magazine. She will be performing in the austin lyric opera's production. And with that said, welcome and let's enjoy some good opera music.

All I can say is wow. Isn't that great. I do have a proclamation, so don't run off. It reads, be it known that whereas the city of austin, texas is blessed with many creative musicians whose talents extent to virtually every musical genre, and whereas our music scene thrives because austin audiences support good music produced by legends, our local favorites and newcomers alike, and whereas we're pleased to showcase and support our local artists, I therefore, lee leffingwell, proclaim november 5, 2009, astin lyric operaay in texas. Congratulations. [Applause]

I would like to welcome city council member chris riley.

Hey, there. It is my great pleasure and privilege to be able to recognize one of our very fine city programs tonight, and it is a program run by our small business folks and it has met with resounding success and is drawing more and more of an audience each year and now has drawn terrific acclaim and is going to be showcased at the up-coming national league of cities gathering in san antonio. And so I'm very proud of this program and I'm going to go ahead and read a proclamation about it. Be it known that whereas the city's small business development program annually offers to meet the lender event to area small businesses seeking financing for their business ventures. And whereas the national league of cities has recognized meet the lender as a program to be spotlighted during their 2009 city showcase conference in san antonio, and whereas meet the lender is a best practice model of connecting entrepreneurs to small business lenders, now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do congratulate the small business development program on this significant achievement and here by proclaim november 11-13, 2009, as the national league of cities meet the lender spotlight days. Thank you all so much for what do you and congratulations on your recognition for this very fine program. [Applause]

they're pointing me to the mike. I'm the city manager. I don't know if I can say it any better than what was just said in that proclamation. I just wanted to have an opportunity to really stand here and acknowledge all of you for your just outstanding work. It's no small feat to be recognized in this way by the national league of cities. I will tell you, it is just really, really a big deal and it speaks volumes about the quality of people that we have in this organization, their creativity and ingenuity in putting together this program that serves so many people interested in starting small businesses so we're proud of you, congratulations to you.

Meet the lender is one of 33 programs showcased for 2009. Austin is one of only 25 cities represented this year. So we're proud of this recognition and I wanted to introduce our small business development program staff. These are members of our staff. And also to congratulate them on a job well done on "meet the lenders". Thank you. [Applause]

this is a great night, another one I'm very excited about. Niyanta here? She going to be late? Should we put this off a little bit so she can get here. Okay, let's go ahead and do it now. Well, I'm excited even if she is not here. You all may not realize this, but there's a cause that, of one fifth off our global carbon emissions annually, one fifth, and it is not much you might think, it is rainforest deforestation, which is a huge problem globally, and here in austin we have an austin-based non-profit working on protecting our rainforest. It is a very exciting new initiative. It is the rainforest partnership, currently celebrating success of its first project in the peruvian amazon, and they are having an event tonight to celebrate their 100th at the bar mansion with film producer elizabeth avion so if you all have a chance to get out there to the bar mansion in northeast austin tonight, this is a great time to do so. This program is truly just amazing and I encourage you to look it up on the internet, "rain forest partnership", it is a wall cause. I will read the proclamation we have. Be it known that whereas deforestation of tropical rainforest results in more emissions of carbon dioxide than from all cars, trucks and planes. And whereas austin's rainforest partnership works with rainforest communities in latin america to help them find alternative and sustainable means of producing income that will keep their forest standing. And whereas rainforest partnership also works to educate our citizen about the importance of protecting the rainforest. And whereas the purpose of this special week is to raise aware how the choices we make of what we consume and how we consume it affects what happens to the world's rainforest. Therefore, I, Lee Leffingwell, mayor of the city of austin, texas, proclaim november 5, 2009, as rainforest partnership week. And congratulations and thank you for all document would you like to say a few words?

Yes. Thank you. I'm the board chair for the rainforest partnership and to have this proclamation this evening is particularly exciting for us because as council member riley said we are holding our first annual fund raising events at bar mansion to celebrate the achievements we now have in peru, which is an indigenous community and we work to protect 9,000-acres of rainforest. We initially thought we would help people buy up rainforest to protect it but we help local communities find ways to make money so they don't have to cut the trees down. And everything we work on comes from the grass roots. We don't go in there saying this is what you have to do, they tell us what they think they can do and so we're particularly excited to celebrate this evening, and the tag line for our organization, we're called "rainforest partnership, linking people to people". And one of the things that is so important to us here is the support we have from the people in austin and now from the city council for the work that

we're doing, so please go on our website and if you think you can help in anyway, get in touch with us. Thank you very much. [Applause]

thank you.

It is a very special privilege for me today to issue a proclamation honoring our veterans and in particular our veterans who are also city of austin employees. This is indeed a very sad day, especially for veterans, because of the tragedy that occurred today at ft. hood. I'm still trying to catch up on the details of it but it would appear at this point 12 military folks were killed and 30-some-odd received severe injuries and their fate at this point is still unknown. So if we could, let's just have a quick moment of silence for hood today. [Moment of silence]

thank you. [One moment please for change in captioners]

Mayor Leffingwell: I'll read the proclamation, and before I do, everyone remember next week, veteran's day, NOVEMBER 11th, PARADE DOWN Congress avenue in the morning and there will be a ceremony on the capital south steps at 12 noon. And I will be honored to be participating in that as well.

The proclamation reads that be it known that whereas since 1926, america has set aside a day to honor the men and women who have served in our nation's armed forces and to express our appreciation for their service in times of peace and war, and whereas the city of austin is privileged to take part in this year's veterans' day ceremonies honoring the courageous men and women who have selflessly fought for our liberties and defended our way of life. And whereas on veterans day we acknowledge what our veterans have done and what today's men and women in uniform are continue to go do to make america and the world a better, safer and more peaceful place. And whereas we call on all austinites on call on all military service members and their families for their sacrifice on behalf of our great nation. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim NOVEMBER 11th, 2009 AS Veterans day in austin, texas. Big hand for these folks. [ Applause ]

wow, what an honor. On behalf of all the veterans, it's honoring. Please let us not forget what the 11th of november stands for. Personally I am blessed with many families, my immediate family, they didn't ask for this, I did. But in order to go forward and do good things and to provide that blanket of security for everybody, it's what we must do. To my family with the police department and the city of austin, I cannot tell you when you start worrying about all those little things when your life gets turned upside dawn because of the commitment you made to protect this country. And to make phone calls and trying to deal with situations and have people on the other end immediately have the answers without having to explain your situation to them is just profound. I even think I've got somebody to volunteer to mow my yard, and being somebody concerned about the safety of the citizens here in the city of austin, you don't want my wife out there with a lawn mower or edger. [ Laughter ] and to my family with the military, how unique is that, that me and the captain get to serve together? So finally the family of veterans, please let us not forget what that day stands for and what they have done for us. So to my family, the police department, the military, and our veterans, I salute you. Thank you, sir. [ Applause ]

Mayor Leffingwell: We can all take a picture over here in a minute, but I do want to assure you the city of austin is a five-star department of defense employer. We've been given the freedom award by the department of defense, the highest civilian award that can be given, which means we take care of our folks. And we will take care of your family while you're away. And allen bergeron, our veterans consultant, will mow your yard for you. [ Laughter ] [ applause ]

Mayor Leffingwell: Members of the mayor's fitness council, please come down here and join me. I think my personal trainer, paul, who works me out every morning before councils, i thank him for feeling great right now. We're going to honor several folks today for their partnership in the mayor's fitness council. We have been promoting austin for several years. Mayor will wynn, my predecessor, was the originator of this group to promote the goal of fitness. As we see everyday, more and more, how much more important fitness is becoming in the lives of americans when we see the staggering statistics that impact the health of even our young -- the youngest people in our community. So what I'm going to do is first I'm going to read this certificate, and there will be several people who get the same certificate. I'm not going to read it again and again. I'll just read it once for everyone. I'll let lou say just a couple of words, literally, lou, just a couple. And if you can bring yourself to that. I know you, so that's the reason I'm saying it this way. [ Laughter ] so then we will call the individual groups up to receive their certificate. a partner certification is here by conferred upon, fill in your name, this one is live strong. Your business is a role model for others because of the support you have given your employees by promoting healthy lifestyles. The mayor of austin and the mayor's fitness council congratulates you on your efforts thus far and encourage your continued involvement in promoting good health through improved nutrition and physical activity. This certificate is presented in recognition thereof on the fifth day of november, 2009, and it's signed by myself and paul car rose is a. So lou, please feel free to say a few words.

Thank you very much, mr. mayor. I'll try to keep this to a few words. First of all, I'm honored, as I know all our members are honored to have this group of new mayor's fitness council partners here tonight to receive their award. These are the first partner certifications to occur following our pilot, which took a couple of years in this program, and ended in 2008. So it makes it especially a special day for us. As the mayor said, the council was founded in 2004 to help austin become the fittest city in america by 2010. And 2010 is fast approaching and we're confident that we'll be able to make that claim. Although fitness is a key part of our mission, what we're really about is to pro he moat and help -- promote and help all our community live healthier lives. So I'd like to express my gratitude and the recognition for all of our councilmembers, some of whom are here tonight, who volunteer their time and are very dedicated and committed to this movement that we're involved in. And without their support -- and without the help of the mayor and a forward-looking, innovative city, austin, texas, none of us would be here today. So thank you very much, mr. mayor. [ Applause ]

Mayor Leffingwell: Before I pass out the certificates, I do want to assure you that the mayor's fitness council is a legacy that I intend to continue and support with all the resources that I can muster in my office because I think it's that important. The first partner certificate is for live strong. Is a representative here? [ Applause ] thank you. Infusion, representatives from nfusion? [ Applause ] this partner certificate for ronald mcdonald house charities of austin and central texas. [ Applause ] next certificate for frost insurance. [ Applause ] and the final certificate for revenue cycle incorporated. And they are not here

tonight. We'll get this certificate to them, gale. Thank you. [ Applause ] let's give them all a big hand. [ Applause ] now, another fun proclamation, and the subject tonight, ladies and gentlemen, is geography. Not the geography that i studied back when I was in grade school and high school, when it was a very important subject, by wait. I always lament the fact that young folks today really don't know what all the capitals are of various countries around the world. And so what we have today is modern geography in the form of gis. And so we're honoring some folks here today that are very prominent in that, and I will read a proclamation for them. Be it known that whereas national geography awareness week is celebrated to promote geographic awareness and literacy in our schools and communities and whereas geographical information systems or gis technology, is an important part of geography awareness. And whereas the city of austin is committing -- is committed to applying the use of gis in such fields as environmental protection, land use, planning, natural resources, infrastructure management, and online prevention as well as sharing the results with the general public. And whereas gis technology can help the city of austin achieve its mission to be the most liveable community in the country. And therefore the city has invested in gis technology in training for all city staff. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim NOVEMBER 18th, 2009 AS GIS Day in austin, texas. Congratulations. [ Applause ] and now leeann, would you like to come up and say a couple of words on behalf of your leagues?

Sure. Thank you very much. Thank you, mayor, for this proclamation. We're very excited about gis day. IT IS NOVEMBER 18th. It is our 11th annual gis day here at the city. It's open to the public. We will be validating parking. It's here at city hall from 9:00 to 3:00. This year the theme is tied together with gis. We use gis across the city. It helps us manage the city in many, many ways. Come see for yourself how we use it, even before we get to work in the morning, your alarm clock, what you had for breakfast, your commute, all kinds of things use gis technology to make them manage a little bit better. I just want to quickly go through some of the things we'll be having, educational and fun booths and presentations by city staff on how different departments use gis technology. There will be a map contest and gis challenge awards, a map gallery, a gps demo, hands on viewing of the new and improved development viewer, and the much anticipated stump the gis experts game. [ Laughter ] in particular the other thing we're doing during the week surrounding gis day on THE 18th, WE WILL BE Providing awareness and literacy for our children in the schools. There's 17 of us who will be doing presentations to over -- right now it's in the neighborhood of between a thousand and 1500 kids during that week. We're very excited about THAT, SO NOVEMBER 18th, Please join us right here, 00 for gis day, and come find out how we're all tied together with gis. [ Applause ]

Mayor Leffingwell: I'd like to introduce councilmember sheryl cole to make a presentation. Welcome.

Cole: Thank you, mayor. I feel like this is a special honor. I remember when my firstborn was born and being in the hospital delivery room, and my husband was in there and all of a sudden them saying fetal distress. And you know, send for the neo natologist from brackenridge. He's in route. He will be here in seven minutes. And the last thing i remember is my husband saying, go get my boy. And then they kicked him out, of course. [ Laughter ] and then they put me under. And I remember when they handed me that little bitty baby, I could not even open my eyes, but counting his fingers and his toes to make sure that they were all there. And the sheer joy of that experience. So I feel especially blessed to have

the opportunity to give this proclamation today because I know that my children's health has been a special gift, and I really respect the work that you do. Be it known that whereas prematurity has been escalating steadily and alarmingly over the past two decades. One in seven babies in texas is born preterm. And whereas the march of dimes is the leading nonprofit organization working to improve the health of babies by preventing birth defects, premature birth and infant mortality. And whereas the march of dimes has implemented the centering pregnancy program to help reduce preterm births. This program includes expectant mothers, prenatal doctor visits, plus group sharing with other expectant women where they receive support, advice and encouragement. And whereas among centering pregnancy sites, preterm births have been reduced by a third in texas. The number has been reduced by 50%. Now therefore lee leffingwell, mayor of the city of austin, texas does here by proclaim november 2009 as prematurity awareness month. [ Applause ]

I'd like to say thank you to councilmember cole and mayor leffingwell, and to all the councilmembers. As she stated, november is the national premature awareness month for the march of dimes. With november 17th being the national prematurity awareness day. One in seven infants born are born prematurely and if you look at the number of infant mortality deaths in the country, prematurity is the leading cause of infant mortality in the country. The cost of that is that gives to the society both economically, financially and really emotionally it's tremendous. Just when you look at the economic costs it costs the united states approximately 26 billion. That's billion with a b, to take care of our premature when you break it down individually it's approximately about 32,000 for one child born premature versus \$3,000 for a child born at full term. So it definitely stresses the need for it to address this problem. Here at the march of dimes we have been trying to and we are attempting and we will succeed in addressing this problem head on. With our different programs that we have been instituting throughout the state and throughout the cole was describing, center and pregnancy. Center and pregnancy is a program which the march of dimes has particularly in texas, has led the way in leading this program and reducing prematurity. It is a program that is initially started by the centering health care institute for at risk groups. Being an obstetrician, gynecologist, I was very, very aware and very into what the benefits of the program are. As is stated here, it's the -- in texas we have approximately march of dimes has been very instrumental in funding 15 sites across the state of texas. They've invested approximately \$700,000 in these sites. And austin and central texas has been very lucky to receive three in central texas, two here at rosewood zaragoza clinic and the people's clinic. And particularly today since the tragedies that have been going on at fort hood, we would also have a site at darnell hospital at fort hood. Centering pregnancy is a group prenatal care in which women in a group of eight to 12 will get together and they come for each of their prenatal care appointments. The statistics in texas, the preliminary numbers that we have shown so far in women who are participating in the program, has been tremendous. We have cut the women who are in the program by 50% of their premature infants of being born. Alone at the darnell at fort hood as we remember, approximately 96 women have been participating in that program. We've had one premature birth and that's at 36 weeks. So I cannot stress the importance that this program has been to combat premature birth. On behalf of the march of dimes, we would like to once again say thank you for the city of austin for recognizing and to proclaim that this is prematurity awareness month and to be recognized. We encourage all you to join our cause in any shape, way or function, either with -- involved in the centering pregnancy, our nicu

support staff and our fund-raising and also of course in the spring with the march for babies. Once again, we would like to say thank you for allowing us to share this and we encourage everyone to participate in combatting this epidemic that we have with prematurity. We will be available in the foyer with a representative, wanda, and (indiscernible). They will be available for any questions that you may have about the works that we're doing here, not only in austin, but in texas in general. Thank you. [ Applause ]

Cole: Are you coming down? Good, good, good. This is along the same theme, premature babies, nurses, good works, health. I really appreciate you guys coming out and I really appreciate the work that you do, and I want you to know that the whole council does. We have a proclamation here. It states, be it known that whereas advanced practice nurses are degreed, licensed health care professionals who possess advanced medical education and clinical training in various health care specialties. And whereas the thousands of highly skilled, advanced practice nurses offer invaluable expertise. They perform physical examinations, obtain medical histories and diagnose and treat illness and injuries under regulations enforced by the texas board of nursing. And whereas we are pleased to recognize advanced practice nurses for their contributions to public health and well-being and for the excellent patient care they provide to austin citizens. Now therefore i, hee lee, mayor of the -- lee leffingwell, mayor of the city of austin, texas do here by proclaim november 8 through 14, 2009 as austin advanced practice vursz week. Thank you. , My name is karen mccarthy. I'm an adult nurse practitioner and I'm very pleased to accept this award and this proclamation and just introduce some of the not only present nurse practitioners or clinical nurse specialists, because we have various titles. We can also be called nurse anesthetists, and nurse midwives. You can see us all throughout texas. We've been around since the 1960's. We not only deliver babies, but deliver an these i can't -- anesthesia. So we've got future np's here. I've got a student with me. I work at brackenridge with palliative care program and I'll let everybody introduce themselves briefly so you can get a scope of how varied our practices are.

I am happy to be here again this year. I'm sandra ransom, a women's health nurse practitioner and I work at the planned parenthood clinic off ben white.

My name is holly cross and I am a graduate student hoping to be a clinical nurse specialist in may. Keep your fingers crossed for me. And I am working with karen and it's been a wonderful experience. Thank you.

I'm johanne ross, a family nurse practitioner and I provide care in a small business here in austin for the employees and their dependents.

I'm linda, a pediatric nurse practitioner, which means I take care of primary care needs of children zero through about age 21.

My name is mary blackburn, I'm the clinical director of legacy heart care in austin, texas. And I take care of patients with cardio vascular disease and treating them to build up collaterals in their heart.

Hi. I'm monica allman and I'm a family nurse practitioner and I take care of pediatrics and adults.

And this is my daughter, emily leffer. [ Laughter ] and she's a future np. She wore this to school today. [ Laughter ] [ applause ]

tonight we're lucky to have more musicians here, not to play, but to recognize. Bob livingston has been around the city and performed for decades, i guess, would be accurate to say. Decades. But not only does he perform in austin, but he is actually an ambassador for over 20 years. Bob and his colleagues have worked as an ambassador with the united states state department bringing music to countries around the world. And on november 14th, bob and two of austin's finest musicians, richard boden and bradley cox, who is here with us, called the bob livingston trio, are going to be out on a whirlwind tour, an international stowr that will take them to switzerland, france and africa in. In africa the shows are sponsored by the state department. And they're going to be visiting rhwanda and (indiscernible). Spreading the word of austin music and forming bonds all across far and wide. And in fact, resoto is one of austin's sister city, which was begun in 1978 by bertha means. I wanted to mention that you all will be actually reinforcing that great relationship that we have with the folks in masuro. So with that I do also want to mention that after this they're headed out to the saxon pub for a gig. So if you want good music we have a proclamation that i want to give you. Be it known that whereas singer, song writer and performer bob livingston has spent his career drawing audiences of all nationalities into his performances through his songs, stories and ingenious humor and whereas this month bob, along with violin, cello player and bradley cox, members of livingston's multicultural groups, cowboys and indians, will take part in a tour to africa sponsored by the u.s. State department. And whereas the tour is designed to bridge cultural barriers around the world through the universal medium of music. We wish the bob livingston trio much success as they take the austin sound to africa. Know therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim the bob livingston trio as austin's international music ambassadors. [ Applause ]

thank you, councilmember morrison and thank you mayor leffingwell. Thanks to the city of austin for this great honor. Part of the mission of the united states state department is a cultural mission as well. And the most startling example probably is a year ago or so when north korea invited the new york fill harmonic, I believe it was. That was the state department's program that opened that incredible opportunity up. We've represented the city of austin. Bradley, we don't have the entire trio, but bradley is here. He's a great guitar player. Richard couldn't be here tonight. We want to thank him for agreeing to go on this great adventure as well, bradley. Thanks, everybody, and we hope we represent you well. Thank you very much. [ Applause ]

Mayor Leffingwell: Before we begin our public hearings tonight, I want to mention once again the word about the tragic events that we heard about today in fort hood. In addition to being our neighbors to the north, fort hood is one of the largest military installations in the world. Current media reports indicate that at least 12 are dead and more than 30 injured in a tragic rampage. President obama has called the mass shooting an horrific out burst of violence, and I join him in expressing that sentiment. Our prayers and our thoughts are now with the wounded and the families of those who have lost their lives in this tragic incident. Here at the city of austin, we'll continue to monitor the situation in the spirit that the city of

austin has become known for. We stand ready to provide support where we can and assist them and their families when and if asked. And once again, I would like all to join me in a moment of silence for those who lost their lives, those who were injured and the families of those folks right now. Thank you. Thank you very much. 00 public hearings and begin with item number 68. Mr. guernsey.

Thank you, mayor and council. Item number 68 is to conduct a public hearing and consider approval of an ordinance amending chapter 21-1 of the city code to establish public notice and public hearing requirements for processing of a proposed development agreements for a proposed project by a governmental entity. And I think this arose earlier this year when the hospital district was considering developing a site up on -- off of 183 and it actually started entering into our zoning process and withdrew the application, basically stating that they had sovereignty and did not require our zoning approval authority to go through. I know you went through many citizen communication meetings where that issue was brought up and brought to your attention and you passed a resolution eventually that directed the city manager to come forward with an ordinance amendment that set up a process similar to a zoning application so we would provide newspaper notice, we would provide public hearing notice to renters, utility customers, property owners, registered neighborhood associations. And that ordinance is brought before you today. About two weeks ago you actually had the opportunity to see one of those applications that was -- we worked very successfully with the round rock independent school district to move forward with an addition to their high schools on the northside of our city. And that went through that same process where there was an amendment to the interlocal agreement with round rock independent school district to amend the building coverage because they were a little short on building coverage by the interlocal and because of the zoning regulations when they were annexed in, and that was very successful and went through the same process as the zoning change. And you approved that and as far as I know it's under construction right now. So this would formalize that, that this would apply to all the school districts and other governmental entities that we work with. So staff recommends approval of this. And if you have any questions, I'll be happy to answer them at this time. I don't think anyone signed up for this item either.

Martinez: I just have one question. Greg, there was an issue that came up with, I believe it's bethany lutheran church on william cannon drive. Several years ago when we did an ordinance, but it was actually contemplated a site plan and zoning -- development, potential development, would this amendment to the code encompass those acts into a public hearing input process?

I don't believe so because that was a private entity, that was a church at that time. And I think that had to do with some settlement agreements. I don't know all the particulars of that.

Martinez: Okay.

But there are tracts, like at bowie high school if they want to do something that would require amendments to this, which is right next door, then those things would go through this process.

Martinez: Okay. I'm going to be curious as to looking at how many settlements are out there that could have potential development impacts through an ordinance process that doesn't really go through

planning commission or sap and have that public input process because I think we miss that had component in that one case and now after the fact we're getting a lot of feedback from the surrounding neighbors who just were unaware of it. Thanks.

Mayor Leffingwell: Okay. Just for the sake of clarity, to emphasize this only establishes a notice process and a public hearing process.

That's correct.

Mayor Leffingwell: It does not change the facts on the ground that these are sovereign entities and do not need permission from the city of austin to -- in most cases to do what they want to do.

That's right. It provides a notice process and a hearing process.

Mayor Leffingwell: Notice and hearing. Not an action process.

It's not an action process. You will see those actions as they're brought forward to you as we amend from time to time an interlocal agreement.

Mayor Leffingwell: All right. Councilmember morrison.

Morrison: I wanted to thank staff for their work on this and putting this together. I think it's really going to help improve things. We've gotten probably more to go, but I think this is going to make our decision-making process when we're working on the development agreements more transparent and we'll be able to have input and get to better solutions. So with that I'd like to move that we close the public hearing and approve on all three readings.

Mayor Leffingwell: Motion by councilmember morrison to close the public hearing and approve item 68, and the second by mayor pro tem. Is there any further discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Thank you, mayor and council. Also I'd like to thank the watershed protection department staff because they did the lion's share of all the work of this. I just came in for the glory piece to present it to you this evening.

Mayor Leffingwell: As usual, mr. guernsey. [ Laughter ] item 69?

69 Is to conduct a public hearing and consider an ordinance amending title 25 of the city code to clarify that a neighborhood planning contact team may be an interested party for purposes of administrative appeals. And I think this issue resolved over an appeal after conditional use permit and whether or not a neighborhood planning contact team had standing. You passed a resolution earlier this year to instruct us to approve a code amendment that would actually establish a neighborhood planning contact team as having the same rights and privileges as a neighborhood organization. And this is a relatively short

ordinance. It does that. Staff would point out we would have one amendment and that's to reflect that the director means the director of the planning and development and review department, which is me, instead of neighborhood planning and zoning, which was my former department. So with that one change, we would offer this for consent approval on three readings. I'm not aware of anyone that signed up for this item either.

Mayor Leffingwell: Any comments? Councilmember morrison.

Morrison: Again I think this is a good cleanup and we know we ran into some trouble before and we won't have to go through the legal discussions about standing. And I think it's entirely appropriate. And with that I'd like to move that we close the public hearing and approve on all three readings.

Second.

Mayor Leffingwell: Councilmember morrison moves to close the public hearing and approve item number 69. A second by councilmember spelman. Any further discussion? All in favor say aye. Any opposed? That passes on a vote of seven to zero. And I believe that takes us to item 70.

Thank you, mayor and council. Item number 70 is to conduct a public hearing and consider an ordinance amending chapter 25-1 of the city code relating to neighborhood plan amendments. And there are numerous amendments, some that deal the definition of neighborhood planning contact team, which you just amended with the last ordinance that you just approved. Also establishing when an application to amend a neighborhood plan may be accepted to an individual property. Adding language that the city council can initiate a neighborhood plan amendment. There are sections that speak to contact teams having bylaws and membership lists that can be made available to the public. So we can share them with people from the neighborhood or people that want to do different things in the neighborhood that are property owners. Also to change some references to contact team representatives from non-property owner residents to residential renters and some terminology to say neighborhood associations to neighborhood organizations, which is used throughout our code and more formalized. There was an issue that came up with conflict of interest, and after talking with the law department, the department of -- our office of integrity at the city, to suggest that actually be removed because that caused a lot of confusion regarding who had interests on what and what amount and that we had really no authority to enforce conflict of interest even if there was one that someone participated in. Because unlike councilmembers, city staff or commissions, there are procedures that we have in our code that deal with conflict of interest. Also to clarify, notice procedures or public hearings, actually to state that an applicant, if they move forward, a property owner moves forward with a change for future land use map that clarifying fees, clarifies that contact teams don't pay fees for their amendments as they bring them forward. And also that there's a section that deals with neighborhood plan amendments that would actually expire -- expire over a certain period of time if there was no action that was taken. So just make sure that they're not left hanging out there for years and years and years. With that if you have any other questions, I'd be happy to answer them. jack is here and wanted to speak to a couple of things of interest that he had. And --

Mayor Leffingwell: Questions for staff? We'll conduct the public hearing and signed up is jeff jack, against. Welcome, jeff. You will have three minutes.

(Indiscernible) is going to donate me three minutes. She's signing up outside at the moment.

Mayor Leffingwell: All right. You have six minutes.

It's 2009. In 1997 I was president of the austin neighborhoods council and served on the ad hoc committee that wrote the guidelines for neighborhood planning. Over the last dozen years I've watched how the neighborhood planning process has gone through many changes. And I'm glad to see that we're still trying to make neighborhood planning valid in our community, but I have two little anecdotal stories to tell you. Joseph stalin said, what's important is not the vote, but who counts the votes. Just recently we had a situation in our state where a man was convicted of arson, the tragic death of his daughters, and he was convicted of murder and he was sentenced and he was executed. And years later the forensic evidence began to unwind and the panel that was charged with reviewing that was coming to the conclusion that he was wrongly convicted. And when the governor found out about it, what he did is he removed three of the members of the panel right before they were supposed to have their public presentation of the case. So if you don't get the answer you want, ask the question to somebody else. And how does that relate to this amendment? My big concern is continuity. That the neighborhood planning process is based upon a simple principal. Community driven, staff supported and council ratified. And when the community comes together and creates a plan, it was really intended to stop a lot of con 10 shusness if our community to give everybody a clear view of what was accepted in the neighborhood and what was not accepted so that if you wanted to do something that was consistent with the plan, you've got a green light. And if you didn't, then you would have to go to the struggle of trying to get it through. But the continuity is the people who do that heavy lifting of crafting the plan, how does that information get conveyed or consistently transferred to the contact team. There are a couple of issues here. I find it very interesting in the very first paragraph of the new proposed ordinance, it talks about making it very clear that a neighborhood plan contact team is separate from a body apart from any existing future neighborhood association. Why is that wording in there? Isn't it also separate from any other civic organization? Or business organization? Or social organization? Why are neighborhoods pointed out as they're not part of the contact team? So there's a preference here. I'm concerned about that. Why isn't all the other civic organizations or other organizations that have an interest in the neighborhood planning process listed to make sure everybody understands their representation isn't the community's neighborhood plan? But the real problem that i have has to do with how do we find out who is on the contact team? Because the contact team is supposed to be in charge of implementing the approved plan. Well, as stalin showed us, it's not so much the plan, it's who actually implements it. So how do we make sure that the people who wrote the plan or invested in the plan, spent years developing the plan, are the ones that are actually going to chaperone getting it completed? I think that this is a good step in the right direction to clarify a lot of issues that have come up about a plan amendment process. But I think it needs some work. I think we need some clarity with regard to why is it that neighborhoods are, you know, focused on in the very first paragraph as opposed to just saying all other organizations are not the contact team. And why is it that we have an open-ended situation where people who spend all this time developing a plan don't know who is actually going to be

involved in overseeing the implementation of it? How do we make that transition? So those are my concerns. I appreciate your time. I'm hoping that after many fits and starts, neighborhood planning still has a life to live in Austin. I know we're moving into the comprehensive plan and one of the big issues is the whole credibility of neighborhood plans that have been adopted and how they fit into the comprehensive plan. And we're hoping that as this process goes forward the implementation of neighborhood plans through the contact team really reflect what the community said and not just the vote counters. Thank you.

Mayor Leffingwell: Councilmember Shade, Jack, a question for you.

Shade: I'm kind of intrigued with the point you're making about the definition. I just want to make sure I understand it. The issue that you have is it in this definition -- it's differentiating between the contact team and a neighborhood association.

Yes.

Shade: You're saying why wouldn't that be between some other organization?

How about Rico, the chamber of commerce? A social club or anybody else that has an organization that has participated in the neighborhood planning process, why are they not called out as being part of the contact team.

Shade: Have they ever been mistaken for the other? I was involved with this issue when we were worrying about standing, and I think what has become clear is that these two phrases get mixed up a lot. I mean, to a lot of people who are active in this process, the neighborhood contact team is in their mind the association and vice versa. That's why we had the issue we had withstanding. I've never seen a situation -- I haven't been here very long, but I've never seen a situation where I got confused between Rick Co. and the Zilker neighborhood association or between the YMCA and Old West Austin neighborhood association. I mean, I think what this is trying to deal with is very specific problem that we are having now. And if we haven't done it right, I'd be curious to --

I would just say, you know, separate body apart from any existing or future organization.

Shade: But again, the problem is that people are confusing often times the contact team with the neighborhood association. A lot of times -- we have this problem with the issue withstanding, which now we're trying to address. They're not getting confused with any other groups. It's basically neighborhood associations that seem to be the complication. So I mean -- I don't know if any of my other colleagues have any thoughts on that, but your point is intriguing to me, but I can't think of any other group that's mistaken for a contact team other than the neighborhood association.

Let me suggest this. If that is a mistake, the place to correct is in the process with the staff and how they unfold the planning process. If you go through two years and staff hasn't made it clear to you that the

neighborhood association is separate from the contact team, --

it's real obvious to people like us who are doing it all the time, but again, actually even the people who got caught up in this specific situation where -- where I talk to a lot of neighbors in the standing matter that -- damon will tell you, it's the same people that were the officers of the neighborhood association that are the contact team. To the average citizen spending time showing up to an additional meeting it's very confusing. The names are so similar.

I understand your point. I would say this, your observation is very correct. One of the problems with neighborhood planning is that the neighborhood people show up for it. And they participate. And they work hard. And a lot of other people don't and stay out of the process until the very end. And then come in and try to change it. So I think that that's a legitimate concern. I'm just concerned that it gives a special highlight to neighborhood associations as being something other -- where other organizations are not.

Shade: Well, i appreciate it. It was good feedback and i think it's obviously a work in progress. I think the effort, just to explain it, was to make sure to differentiate between the two groups that most often are confused. It wasn't with any malintent.

Mayor Leffingwell: Thank you, councilmember. Councilmember spelman. Spell speak thank you. Jeff, councilmember shade asked you about your first concern. Let me ask you about your second. I presume you've read this ordinance closely, otherwise you wouldn't have the very specific fine grain concerns that you've got. Is there some specific language or some specific provision that is concerning to you with respect to the neighborhood planning contact team that we may be able to do something about?

Well certainly. I think if you go back to the concept that it's a community-driven process and the community spent years working on it. The folks that have been at the table need to have the opportunity to take all of that learning, all of that experience into the implementation phase. It's a matter of continuity. So if some way that we could ensure that the participation at the planning part of it, that some representatives out of that transitioned into the contact team, that would be a great help. Right now the way it's set up is the city management will initiate the formation of a contact team. What does that mean? It could be anything. So there's nothing in there to give direction to staff about how to create the contact team. Is it going back to, you know, the people that participated in the process or is it a totally different group that comes in to implement something else by somebody else.

Spelman: So, for example, current provision says the contact team shall to the greatest extent practicable include property owners, renters, business owners and neighborhood organization members owning within the area.

Yep.

Spelman: But it doesn't have a requirement that to the greatest extent applicable it should be the people

involved in the actual drafting of the plan itself.

That's right. You could cherry pick out of neighborhood people who haven't been in the process before that match all of those requirements. They would bring no knowledge of what the plan was developed on.

Spelman: Okay. But if we did add a fifth category to the extent practicable, people who are involved from the development of the plan itself, that would satisfy your concern?

Sure. It would be helpful.

Mayor Leffingwell: Councilmember morrison.

Morrison: I want to ask staff some questions. Thank you, jeff. Okay. In your presentation the very beginning under definitions, we've already changed that where it says director means the director of neighborhoods planning and zoning. We just change that had with item number 68, is that correct?

That's correct. And also on number 2, we actually had the language organization. And I have no objection to changing association to organization because neighborhood organizations would be business entities, environmental groups, could be people of one block or many blocks that may or may not even be within the same neighborhood planning area because the borders aren't limited by a neighborhood organization.

Morrison: I think that makes a lot of sense to change it to neighborhood organization because what we just changed and what you don't see on your printout there because we just changed it in 68 is we actually defined the neighborhood plan contact team is a neighborhood organization, etcetera. So if we then go, say, it is a separate -- it's separate from other neighborhood organizations, I would say that they would have a lot of continuity.

Staff would not have any objection to that.

Morrison: Okay. And I have some questions on section 25-1-805. On the expiration of application. I think this is a technical issue, but the way I read it, what this says is that the neighborhood plan amendment application expires if the director hasn't scheduled hearings in a certain amount of time. And as I understand it, and maybe you could expound upon this, we need this because at this point applications for neighborhood plan amendments never expire and we have some applicants that submit them and sort of as a place holder and they're hang outing there for quite a long time.

That's correct. We had a situation happen many years ago with some zoning applications that have been filed. They may have been indefinitely postponed by a commission or they may have been postponed by the applicant and granted and then they never go away. And so rather than have them resurrect three years later, we put -- I've already spoken to your aide about this. I have no objection and take no offense if you want to put in a provision that would suggest something like a zoning provision

that would say that I am compelled or people beyond me that may be the director would be compelled to bring in application forward in a timely manner.

I think that would make --

Morrison: I think that would make sense because the way it reads now, and no dispersion on you, it almost looks like it's the discretion of the director whether or not to schedule it. And when you have council or the neighborhood planning contact team initiating the applications to have that one little gap where it looks like oh, okay, but it's st director that gets to decide, it doesn't make sense. And I know that in the zoning code there's actually just a separate schedule that actually tells when you actually do those scheduling -- a separate section that identifies how you do the scheduling, the time line for that. So I guess what I would like to do is make a motion that we close the public hearing and approve only on first reading, with the amendments that we have discussed, which are to change in section 25-1-801 number 2, the reference from a separate body apart from any other existing or future neighborhood organization. And then to ask staff to find a way to insert a time line for the scheduling of hearings to close the gap on 25-1-805. And then with the help of councilmember spelman -- thank you -- to insert at the end of 25-1-806 b. He's a professor, he has bad handwriting. These representatives shall to the greatest extent practicable be drawn from the group of persons involved in the development of the plan. That's my motion.

Mayor Leffingwell: Motion by councilmember spelman to close the public hearing and pass the ordinance on first reading only with numerous instructions for staff for second reading. You'll pass that on in writing.

Morrison: Yes, I will. Actually, you said it was a motion by councilmember spelman. It was actually my motion.

Mayor Leffingwell: My misstatement. Councilmember morrison, second by councilmember spelman. Any further discussion? All in favor say aye? Any opposed? Motion passes seven-0.

Thank you, mayor and council. At this time I would like to george zapalac with the planning development and review department to representative the item number 71 regarding the champion assets limited property on 2222.

Mayor Leffingwell: Mr. zapalac.

Good evening, mayor and council. Item 71 is to conduct a public hearing on appeals by champion assets limited and the 2222 coalition of neighborhood associations of the zoning and platting commission's decision to approve the site plan extension for a site located at 6015 north capital of texas highway known as the champions commercial development. The property is located at the southeast corner of 2222 and 360 area outlined in red on the map. It's approximately nine acres. The proposed development consists of a small retail center of about 56,000 square feet. And the proposed impervious cover is about 38%. To give you a little background on this case, the site plan was filed on may the 11th

of 2005, and because it was located on a hill country roadway, it required approval by the zoning and platting commission. On november 1st of 2005 the site plan was approved by the zoning and platting commission and it was valid for three years after the approval. Shortly thereafter, the applicant filed a request to extend the expiration date and proposed to split the project into two phases. That approval was subsequently appealed by the 2222 cona on january 31st of 2006, and it was heard by council on may the 18th of 2006. At which time council denied the extended phasing. So that left the original approval of the site plan, which is valid for three years, still in place. But it did not approve the extended phasing that the applicant was requesting at the time. So in december of last year the case was coming up towards expiration and the applicant requested a one-year extension, which was granted by staff administratively as allowed by the code. And then in may of this year the applicant filed a request for a 10-year additional extension beyond the one-year that had been granted. That request was heard by the zoning and platting commission on august the fourth and the commission voted to approve an eight-year extension rather than the 10 years requested. So that brings us to this evening then, and what we have are appeals by both the applicant and the neighborhood in this case. The applicant is requesting that the extension of 10 years originally requested be granted instead of the eight years approved by the zoning and platting commission. And 2222 cona is requesting that no extension be granted. This project is governed by a settlement agreement that was signed in 1996 as a result of a previous lawsuit on the property. And sets forth regulations on the property. Essentially it says the property is subject to the lake austin water ordinance rather than the comprehensive watershed ordinance as well as other regulations that were in effect on december 8th of 1993. The project is subject to current building, plumbing, fire and mechanical codes, and it does provide a certain level of water quality controls, although not exactly to the current level required by the code. The agreement also allows reduced setbacks from loop 360 and 2222 only 25 feet instead of the 100 feet normally required by the hill country roadway ordinance. And finally the agreement states that a subdivision and site plan must be approved within 10 years in order to be subject to these regulations, otherwise it would be subject to current code. This item was on your agenda two weeks ago, and shortly before the hearing we received a letter from brad rock well representing 2222 cona raising several issues about the validity of the previous extensions that were granted. And so I'd like to summarize my response. We asked for a postponement at that time to research these issues and I'd like to respond briefly to the major issues that were raised in that objection. First of all, I need to acknowledge that the files do contain certain errors about the approval dates and expiration dates, and that some of the staff correspondence that was given to both the applicant and interested parties was incorrect. We have re-examined the records and determined that the errors did not invalidate the actions that were taken with regard to extending the site plan expiration dates in the past. One of the first contentions of the letter was that the site plan should have expired on november 1st of 2008. And our response to that was that the actual expiration date was november the 15th of 2008. The code says that the expiration occurs three years after the approval date of the site plan, even though the commission did approve the site plan on NOVEMBER 1st, THE CODE Says that the approval date is two weeks after that in order to allow time for interested parties to appeal that decision. And so the actual approval date was -- by the code was november the 15th, and therefore the expiration date was november the 15th of 2008. That's important because the next argument in the letter was that the one-year extension request was filed after the expiration date. It was filed on november the fourth of 2008 and if the plan had expired november 1st as claimed

and the extension would not be valid, but because the actual acceptance date was november the 15th, the extension was valid and was legitimately valid. -- Legitimately granted. The second argument was that the one year extension granted in 2008 did not make the required findings that are necessary in order to approve an extension. In response to this staff feels that we did go through the criteria that are contained in the code. We determined that there was good cause for the extension because of the delay in the construction on 2222 that txdot had scheduled, but had not yet undertaken. We determined that a new site plan would have to comply with the settlement agreement, and met that criteria. And thirdly, we concluded that the assumptions and recommendations of the traffic impact analysis were still valid. I'll go into that point a bit further in a few minutes. So the actual expiration dates, and as I said, there has been some confusion about this, but the actual dates currently the plan is valid until november 15th of 2009, the eight-year extension that the zoning and platting commission recommended would carry that forward to november the 15th of 2017, and the 10-year extension that the applicant has requested would take it to november 15th of 2019. The criteria for extension, and these are the same whether the director or the zoning and platting commission or council is considering the extension, there are several criteria. The first one is that there is good cause for the request. And as I stated that staff's feeling was that the delay in the reconstruction of 2222 by txdot, as well as the current economic conditions, do provide a good cause for allowing an additional extension. And then the next test is that the request has to comply with one of the following four items. First it would comply with the -- site plan would comply with requirements that would apply to a new application. The agreement is very specific about what rules apply even if this site plan expires. And so staff feels that this criterion has been met. Secondly, the site plan had been filed with the good faith expectation that the plan would be constructed and staff feels that since didn't meet the time frames in the settlement agreement that the applicant did demonstrate good faith in filing a plan that could be constructed. And then the last two criteria, at least one structure has been scrublighted or a significant portion of the infrastructure has been built, neither of those criteria has been met at this time. There has been no construction on the site. The last criterion for discussion is that the traffic impact studies are valid. Tia was originally conducted with the zoning case in 1991. The site plan, even though it was not filed until 2005, the staff felt that the development assumptions have not changed since the original zoning case. As projected at that time, the proposed development would generate will 5600 trips per day. The applicant undertook several design factors to try to mitigate the effects of traffic. And one of the most important is that all access to this site will be right turn in and right turn out only. There will be two driveways, one on 360 and one on 2222, and no left turns out of either driveway will be allowed. And we feel that this design alone has a significant effect on the traffic impact, and reduces the potential conflicts that could occur. In addition to make sure there are no left turns out of the driveway on 2222, the existing median will be extended to block the driveway on 2222 to make it physically impossible to make a left turn out. And that construction will occur during the txdot project and the applicant did contribute funds to pay for the cost of that extension. And furthermore, the zoning -- condition of zoning was that no certificate of occupancy could be granted until that median reconstruction was complete. So staff feels that the traffic impacts have been addressed and that the conditions that were in place at the time of the original tia was performed are still valid today. Council's options this evening are that the first you can uphold the council's decision and that would be approving the eight-year extension to the site plan. Secondly, you could reverse the commission's decision, allowing no extension of the site plan. Or third, you could modify the

commission's decision, approve a different length of extension. That concludes my presentation. I'll be glad to answer any questions.

Mayor Leffingwell: Thank you. Before we -- before we open the public hearing, I need to ask if there are any preliminary issues regarding standing to bring those appeals before the council or does anyone wish to request a postponement? Hearing and seeing none, I'll go ahead and recognize councilmember Spelman for a question.

Spelman: Just very quick clarification. Zapalac, you're saying the original TIA was submitted when?

1991.

Spelman: 1991. I believe it was a requirement for TIA extensions that an addendum be made to an TIA at the appointed extension or else you rule there's no change in conditions.

Correct. We could require an addendum, but in this case we didn't feel it would require enough useful information to justify a new report.

Spelman: Okay. So for that to be so pre-emptive -- traffic conditions on 360 and 2222 have changed a lot since 1994, haven't they?

The background traffic has changed quite a bit. With this particular site, again, because the access is right turn in, right turn out only, the conflicts with the existing traffic are not that significant. They're -- and they're not likely to change with increases in the volumes there. Traffic doesn't contribute to significant delays on the budding roadway the way that a traffic light or a left turn would. W

Spelman: Perhaps not on the point at which you turn. But on the other hand we have an intersection at 360 and 2222, which is -- I don't know the current status of that intersection. I presume it's certainly not an a level intersection. And we would be putting a substantial proportion of these -- how many trips per day did you say?

About 5600 trips per day.

So roughly half of the 5600 people would be turning into that intersection. It would be a fairly substantial increase in the load on an intersection, isn't it?

Well, the traffic would be dispersed in various directions and much of the traffic might be coming into the site and continuing on down. Continuing down 2222 further east. Traffic going westbound on 2222 really can't get into this site without going significantly out of their way, so we don't feel that it's going to attract very much -- very many trips from that direction. You can go north on 360, north on 2222 and turn left at the signal there and go west on 2222.

You have to go basically all the way around if you want to come to this site if you wanted to. If you're

travelling eastbound on 2222, the only way to get into the site would be to basically go around -- (indiscernible).

Yes. You would have to go back out on to 360, go all the way up or come all the way back and make a right turn.

Those would mostly be right turns. There would be a left turn at 2222 if they were going west on 2222, but it would be a protected signal there. And so we don't feel that it would be adding a significant amount of additional traffic beyond what was assumed with the original tia. [One moment, please, for change in captioners] exiting from this property on to -- on to 360?

Spelman: On to 2222.

On to 2222, you can only go eastbound. You can only go eastbound. I have a copy of the site plan here. Maybe I can put it on the overhead and --

Spelman: I guess I'm confused as to which corner this is.

The aerial photo might show it better.

It does. It really does, yeah.

Spelman: I guess I could ask paul the same questions, but reversing my directions.

Spelman: Yeah, I've reversed the map in my head.

Okay. The driveways using 360 will be approximately this location. Driveways to 2222 will be here. So a vehicle wanting to exit and go westbound on 2222 would have to come on to the frontage road here and go up to the stoplight and turn left. A vehicle want to go exit and go eastbound on 2222 could exit on this driveway and continue on to the east. But it would not be possible to turn into the site from 2222.

Spelman: I feel better about since you having trouble with push buttons.

You would not be able to either turn left into the site off 2222 or turn left out of the sight on 2222.

Spelman: Now that I'm properly oriented and north actually means up on this map, then we're not talking about any new signals here.

Correct.

Spelman: And so far as you can tell, this is not going to -- in your opinion, this is not going to put any additional load on that intersection of 360 and 2222.

No more than what was assumed in 1991.

Spelman: Okay. Thanks.

Mayor Leffingwell: Councilmember morrison.

Morrison: I want to ask you about the same topic. It says -- what you're saying is you think that the effect is going to be the same. So the conclusion you would reach is the same as the conclusion that we reached or the reviewers reached back in '05. And in fact, what the criteria are for extension are that the assumptions and the conclusions are the same. And so I'm wondering if we can talk about what assumptions go into a t.i.a. Because the assumptions are, of course, about -- my understanding, the assumptions are about the property and what kind of traffic, but also there are assumptions made about the surrounding -- the traffic and the environment.

Yes. Yes, that is correct, there are assumptions made about existing traffic and projected traffic on the road as well as the site traffic. And there has been an increase in -- in traffic on the roads. We acknowledge that. But again, our feeling is that there really is -- the effect of this particular site on the traffic is -- is mitigated by the design of the facility, the right in, right out movements, the extension of the median, and we really don't see much of anything else that could be done to -- to address the -- you know, any problems that may occur. And that, you know, since the applicant did participate in making the -- or has agreed or has actually put up money to make improvements to 2222, you know, we felt that the conclusions would be the same as with the original t.i.a.

Morrison: I guess the reason I'm questioning this is because my understanding of s and the results of them or what impact they have is if your development is going to turn an intersection from a to b, that's fine, but if it turns it from c to f, then that's not fine. So it really does sort of matter at what entry point -- you know, at is because even if you are doing the same development, it could shift from a to b or from c to f. So that's why the existing conditions, which are the , i think are very critical in the outcome.

Well, the -- the -- the service at the intersection is not good. Little a problem in the peak hour.

Morrison: Do we know what it is? What the rating is?

I don't know exactly what it is right now. For different movements it's different levels. From c to e, I believe. And so it's not -- it's certainly not desirable in all cases. You know, if any development occurs on the site, it's going to have some effect on that intersection, but we feel that -- that basically the things that they could do -- any -- any additional contribution to that -- to that left turn movement that is described at 2222 and 360 is -- is going to be fairly small from this site. You know, if you figure that about 10% of the traffic occurs in the peak hour, we're talking about, say, 560 trips per day, most of them would probably be continuing on 2222 rather than, you know, trying to go back in the opposite direction or, you know, or they might go north on 360 instead of trying to come in on 2222 and then return westbound. So the number of vehicles that would actually be making that maneuver we think would be fairly small during the peak hour, and, you know, any additional contribution to that existing

problem would be fairly small.

Morrison: Thank you. I appreciate that. I just want to keep in mind that it's our responsibility to look at whether the assumptions and conclusions are valid. I have -- okay, change of topic. Can you help me with a little bit of history. You said that in 2006 there was a request to do a five and ten-year phasing of the site plan.

Yes.

Morrison: And that the council rejected that request, and maybe I could can ask some of my colleagues here if they remember that rejection, but could you in a nutshell provide any rationale for what went on in the discussion, or should I ask my long-term-my colleagues that have been here for a while?

I think many of the same arguments that you hear this evening. That case was appealed by 2222 a and I think many of the same concerns, the traffic and the environmental issues, the fact the property is allowed to develop under earlier rules were all issues that were made at that time. In terms of why council actually made that decision, I'm not sure I can articulate that, but I think that they did, you know, hear all the issues that are still with us this evening.

Morrison: If anyone on the dais remembers that, i would certainly like to hear it. Thank you.

Mayor Leffingwell: I remember it. I don't know if I remember any rationale. But it was slightly different. It was a phasing, was it not?

Yes, it was.

Mayor Leffingwell: Which is different from a plain extension.

It was a phasing and an extension actually. This one --

Mayor Leffingwell: But the phasing was part of the extension request.

Yes.

Mayor Leffingwell: And that made it different from what we're hearing about today.

Not significantly because it was too two faces. Two -- phases, one five year, one ten year, and the request this evening is one. Although the plan has been phased since then, the request is to allow ten years for completion of the site plan.

Mayor Leffingwell: Okay.

Morrison: So that's sort of -- that's the outer boundary of what they were asking for last time. Last time

they were asking for something less on part of it, only five years for phase 1, and ten years for the second phase.

Correct.

Mayor Leffingwell: Councilmember Riley.

Riley: I just had a couple questions. First is about the one-year extension that that may or may not have made in a valid way. But the neighborhood says that -- the zoning and planning commission failed to make the required findings and therefore the extension is invalid. And I understand your point that the findings -- there were findings contained in the staff report. I was trying to look at the code language as regarding the required -- the requirements for those findings, and it's a little challenging because I think the code -- we're actually dealing with a 1993 code, which is a little hard to put your hands on. Can you just help me understand the requirements -- what the required findings are? Was it necessary for the zoning and planning commission to make findings or was it up to the director to make findings?

The commission has to make their findings. Excuse me. The director did make a recommendation to the commission, but the commission has to make its own findings. In terms of the language, Lloyd might want to comment on that a bit in terms of -- of what the -- what the code called for in 1993 as opposed to the current code.

Riley: But could I just while I've got you, so did the zoning and planning commission actually make express findings at the time it granted the one-year extension?

They did not include specific items in their motion. They simply made the motion to grant an extension. Of course, there was discussion on the dais about the case and, you know, different feelings about it, so they did, you know, discuss their reasons for -- for how they voted, but they -- they did not put those into the motion.

Riley: Okay. And we now -- we're now sitting in the same shoes that zoning and platting was in when it reviewed the original request.

That's correct.

Riley: So if we -- if we grant one of the bills, are we required to make findings? Lloyd address that.

Good evening. Brent Lloyd, city legal department. And just a couple points that I hope will be responsive to your questions. First is that the extension criteria, generally speaking, people don't grandfather out of procedural requirements. So although the settlement agreement talks about applying the ordinances as they existing in 1993, our recommendation to staff was that they look at the current criteria in code for an extension request. And those criteria are essentially the same. The substantive criteria that Zapalac walked through are all the same, slightly reworded here and there, but they are basically the same. But the current code does not require findings, it requires simply a determination. It requires the commission

to make a determination. It does not require findings. So from that perspective, we feel that the commission's decision satisfies the requirements. Additionally, if we do look at the 1993 code, which does include the requirement for findings, it's fairly common for a commission or a body when they approve something to essentially by virtue of their vote incorporate the staff findings that are submitted to the body and that are made a part of the record. So based on my experience handling administrative proceedings, that is not an uncommon way for a body to incorporate findings. Now, it is true from my review of this matter that the zoning and platting commission did not formally -- they did not invoke any magic words formally incorporating the findings or anything to that effect. But again, I think that's fairly common. They approve an item, the staff report as part of the zapalac presented to you, the staff report included findings.

Riley: And what is the current code provision?

The current code provision is section 25-5-62.

Riley: Okay. And then I just have one more question and it relates to the fact of the expiration of the site plan. The neighborhood's brief on this refers to a line in the -- in the city's master comment report that says if the site plan extension is denied and is allowed to expire, then subsequent type plan submittals may be subject to current environmental code. And they would incur -- that would require conformance with current regulations including water quality. The champions, on the other hand, argue that if -- if they are required to submit a site plan and they are still subject to the 1993 rules. If their site plan did expire and they were required to submit a new site plan, then what -- how do the regulations -- what would they be required to conform with as compared with what they were required to comply with at the time of the original site plan?

I'll provide a legal framework for how a new application would be -- would be reviewed and if there are specific technical questions zapalac may be able to answer those. Essentially under the settlement agreement, the requirement is that the champions obtain a site plan approval within a ten-year period. If they do that, then they are locked into the 1993 regulations that are incorporated in the settlement agreement. For subsequent site plans they submit for essentially the same project, they couldn't dramatically redesign their project or submit something that was of a different scale or character, but they can submit a site plan for essentially the same project and they are still going to be locked in. Now, there are certainly provisions that they don't grandfather out of. Technical code requirements, building code requirements, and some of those technical code requirements to relate to environmental issues. I think the environmental criteria manual would be one of those. And if you would like to hear from staff about the kinds of technical code requirements that could change over the course of a development cycle and that potentially could be zapalac may be able to help.

Riley: Is there a way to summarize the nature of those differences?

Councilmember, are you asking what they would be subject to if the settlement agreement were not in effect?

Riley: Well, if the site plan -- if the neighborhood is right the site plan expired and they have to submit on whole new site plan, just asking about the regulations they would be subject to then. The neighborhood asserts they would be subject to current environmental code.

Well, if -- if the -- the current plan was subject to the lake austin ordinance and if they were subject to the current code, the -- one of the difference the comprehensive watershed ordinance allows 40% impervious cover for slopes of zero to 15%; whereas the lake austin ordinance allows 50%. That's not exact because there are some different definitions and net site area and things like that in the code, but just roughly the comprehensive watershed ordinance would allow less impervious cover than the lake austin ordinance. I'll just put it that way. Slightly less. The lake austin ordinance allows in some cases construction on slopes up to 35%. Comprehensive watershed ordinance only allows construction on slopes up to 25%. Both allow four feet of cut and fill. The lake austin ordinance allows an administrative variance. Comprehensive watershed ordinance requires approval by the zoning and platting commission. In terms of erosion aniseed mentation controls, the -- the correct code would require the enhanced erosion controls that council adopted last year. And the lake austin ordinance did not address critical environmental features; whereas the comprehensive watershed ordinance does. Although we don't have any information so whether there ARE ANY C.E.F.s ON THIS Property. The lake austin ordinance did not -- does not require critical water quality zone. The comprehensive watershed ordinance would require 100-foot setback. However, that really doesn't have an effect on this site plan because there is no development within 100 feet of lake austin. One of the significant differences is hill country roadway. This property was specifically allowed a reduction from 100 feet to 25 feet for the vegetative buffer along both 2222 and 360. The -- if it were subject to current code, it would be 100 feet. So those are the main differences between current code and what the sediment agreement allows.

Riley: Okay.

And of the requirements zapalac outlined, the -- any subsequent site plan that they would submit for the same project would be subject to the 1993 requirements of the lake austin ordinance. What I was hoping staff could address and I think I probably didn't provide a very clear introduction to what I was hoping george would provide is that certain technical code requirements can change. The project can be subject to new technical code requirements if an additional submittal, a new submittal is required. Things along the lines of building codes and other technical criteria manuals. And I was wondering, george, can you address the types of technical code requirements that would apply to this site that potentially could -- newer manuals could be applied?

As I read the agreement, it would primarily be the building, plumbing, mechanical and electrical codes that would be affected. The agreement specifically says those -- the project would be subject to current requirements for the technical codes as they may be amended. So those are the main things that would -- and those really are not addressed at the site plan stage oh, they are addressed with the building permit.

Mayor Leffingwell: zapalac, just so I don't get further confused here, if the site plan expired and the site

plan were refiled, it would be subject to the lake austin watershed ordinance. Is that correct or not?

That is staff's position, yes.

Mayor Leffingwell: And that is the -- the current site plan was filed under the provisions of the lake austin watershed ordinance.

Yes, sir.

Mayor Leffingwell: So all those changes that you just cited, changes in impervious cover, building on slopes, et cetera, would not apply to any new site plan that was filed even if it were expired. Is that correct?

If it is the same project. Now, if it were a new project, then the current code would come into effect.

Mayor Leffingwell: But they could file exactly the same site plan, even if it were expired, and subject to changes in the building and plumbing code, that site plan would have to be approved.

Yes, sir, that is staff's position.

Mayor Leffingwell: Okay. So now we'll hear from -- i don't know which side to call them here. They are both -- they are both appealing here. We'll here from the champion side first and the agent is michael whalen. And donating time to mr. whalen is william duff. whalen, you have six minutes.

Thank you very much, mayor, councilmembers. I'll run through this fairly quickly and then I'll spanned to some of the questions. There are no slopes so it takes care of that but I'll go through that in a minute. I really want to focus on three areas which I've listed here, txdot, the marketplace, and no regulatory changes, which I think the mayor just addressed and I'm just going to flip through this, if i can. As you just saw -i'll go quickly. There was a 2005 application seeking phasing because of market conditions and practical considerations and as predicted here we are again because the phasing was denied. And at that time phasing was denied, but the city attorney and councilmembers confirmed that any new site plan for a similar project would be entitled to approval. Again, we've just had that confirmation again. What we're seeking today is a site plan extension to avoid unnecessary work and expense by the city and the applicant. There are no filing fees associated with this. As a result of the agreement. So there will be expense to the city if a new -- if the site plan were refiled, as well as to the applicant. And many of you have heard me talk about the cost of economic development in this city and I think this is an example of where we can at least be -- acknowledge that and remove that impediment, which is, frankly, unnecessary given the fact that the rules and regulations do continue. The staff recommendation, as i said, in 2006 -- because you can't read it, I've retyped. Staff recommends denial of the appeal as a site plan. That is denial of the 2222 cona appeal because the site plan is in compliance with the code and the compromised settlement agreement. And again, emphasizing that staff supported the five-year and ten-year phasing, which is why they recommended denial of the appeal back in 2006. And again, emphasizing that they did recognize that the site development

application was filed according to the deadline set forth within settlement agreement, and again that has been carefully analyzed by staff and council for the city, and again has been emphasized by your representatives, by the city's representatives here tonight. The council hearing, again, emphasized the only thing that would be accomplished would be forcing the applicant to file the same site plan over and over again, and marty terry emphasizing -- she was the city attorney at the time -- that that would be correct. This is just to give you some of the quotes from that. This is from councilmember dunkerley. Again, why do we have to go through the cost and hassle of the staff approving this every four years when they can get it anyway. I think she did a nice job of summarizing it. To go ahead and grant the phasing in order to prevent the refiling and refiling -- i like how she says that -- of the same site plan at the cost of staff time and dollars. Again, with an emphasis where we are on our budget. So I won't -- you know, it's really no difference in the outcome. I think the new, latest and great challenge other than the economy which you've heard a great deal about already is the txdot schedule here, and this is what their schedule looks like currently, although I think it's probably already been backed up. They estimate two to three years. I think that's a little optimistic in terms of getting that intersection ultimately fixed. So again, no change in the rules that apply. The rules and regulations to this tract. We have a prior staff recommendation of five years and ten years, and frankly the circumstances are much worse. They are not better in terms of the economy and txdot. And denying the extension would require resubmission of the site plan with no fees payable by the applicant while the city will bear the cost and the applicant will be required to needlessly incur substantial expense in refiling the application. I think it was best stated by champion when she said back in may of '06, and meyer are here, the champion sisters, you'll hear from their representative in a moment, but I think she said it best when she said I don't know that it would work a hardship on anyone to pass this. And I'm sorry that it didn't pass in may of '06. I hope that perhaps accepting the zoning and platting commission recommendation might be a fair compromise, that is denying the two appeals that have been brought to you. We are asking for a ten-year extension of the site plan, and again, to -- keeping in mind that the market conditions, and I know you've heard and seen our site plans and have extended our site plans as a result, those were not site plans subject to any sort of settlement agreement. I think txdot's workover of the -- or make over, if you will, of the intersection, which is going to take several years and no one is going to have any interest in the property I think during that time. And the expense on both sides. Which is really needless. And I think this is a way to avoid that, bring some peace to at least this intersection. And I think if we can just show that aerial, I'm very fond of photos and I'm glad this -- that this photo was brought. I think a photo really tells the story. And here, and I think you'll hear the champions have owned this property for over 100 years. I doubt that anyone who lives in the surrounding area that sure surrounds them has lived there more than 40 years. I think it's a pretty dramatic photo at a site at the intersection of two major cross-sections, two major highways that criss-cross, divided their property that they owned. Used to be one big tract before 360 and 2222 cut it in half or bisected it, I guess. And here we have a place that actually will capture trips going into town. It, as you heard, will also capture trips coming out of the neighborhood on to the access road going north on the access road, us a noted, spelman, I know you are familiar with these tracts. Nice to see you again. Revisiting them. And as everybody here knows, as well as anybody, spelman, that west of this site, west of this site outside of our city, many, many, many more developments have occurred and have been put on to this 2222 using our roadway, using our fire service and not paying taxes for it. And here we have a development in the city ready -- you know,

ready to go. It is flat. We're not going to be on slopes. It's a flat site. Excuse me. One reason for the 25-foot setback instead of 100 is there is an extensive flood plain on the back side and so it does -- in order to have buildable space, it's been pushed up closer to the roadway. So there is only a 25-foot site plan - - setback, but you'll see from the I-shaped site plan, and I can show it to you, that there's just one piece that's close. The other piece is further back. It's an I-shape off the roadway. That's the situation. 2222 cona has hired a lawyer, fred rockwell, who has got great arguments. I don't know that this is the right venue. There's another venue that I'm more comfortable that he can bring those issues if he thinks there is a case or such a strong case to be made, and I think that would be the appropriate venue. The city staff and legal department has stated its case, has analyzed this very carefully, and if the issues that he has brought to your attention are ones that are so compelling, I think there's a different venue to test those. On the environmental issue, i found the quote from marty terry because a councilmember in may '06 asked the same question. I don't know if it was you, councilmember riley, or councilmember morrison, asked about the water quality standards in the site plan. Marty terry at the time stated right, they are comparable as far as half-inch capture volume tore water quality but they do not have the two-year. So that's the one change in terms of water quality because it is back to the 1993. So that's what we have in terms of a presentation. [Buzzer sounding] I'll take any questions. Thank you very much.

Mayor Leffingwell: Thank you, mr. whalen. I did give you two extra minutes since you are the primary presenter.

THERE ARE NO C.E.F.s. That was another question.

Mayor Leffingwell: Questions? Okay. We'll hear from the next speaker. Margaret jo duff, in favor. Three minutes.

Thank you mayor and city council members. I appreciate your giving me the opportunity to appear before you tonight. My name is margaret jo duff. I'm speaking on behalf of my aunt josie champion and juanita champion meyer and my mother mary champion robertson. The three are austin natives and my aunts are lifetime residents. Our family has owned the tracts, as michael mentioned, now commonly referred to as the champion tracts for over 100 years. My family has paid taxes and the subdivision has grown to surround and extend far to the we was our land. During this development, fm 2222, loop 360 and city park road divided our property into several parcels. Us a know, the property we're discussing tonight is at the intersection of fm 2222 and loop 360. A crossroads in austin that is suited and suitable for commercial use. We submitted a site plan that was approved, but the market has fallen off and we have no buyers at this time. Now we are asking you to extend the expiration date so that the existing site plan will continue in effect and both the city of austin and we would avoid unnecessary expenses. We are hoping to avoid going through the site plan process again unnecessarily and having all of us incur expenses and time. This is also a strain on my aunts and mother. Us a know with the intense residential development in this area that led to these neighborhood associations, there will also be some infrastructure improvements. And we've asked for the ten years because hopefully, hopefully texas department of transportation will have finished its improvements by then and the market will have improved. Thank you for your time.

Mayor Leffingwell: Thank you. So those are all the speakers signed up on the champion appeal side. Now we'll go to the appeal side of 2222 cona. The primary speaker is brad rockwell. And dale bulah. Dale is in the house. Pat bulah. Carol lee. Lisette schmidt. That gives you 12 minutes. Then you get an extra two because you are the primary speaker, so you have 14 minutes.

Okay. Thank you, mayor and members of the city council. I obviously represent 2222 cona, a coalition of neighborhood associations located along fm 2222 corridor. As you've heard before, my client appealed an earlier site plan extension that the city council denied and we ask that you do the same thing here today. The other side, as you've seen, has appealed an eight-year site plan extension they don't feel is enough on a tract that's been sitting undeveloped since it was zoned commercial in 1992. Under the city's laws, the landowner is not entitled to an extension. There are countless legal errors leading up to this made by staff and zoning and planning, and I've addressed a lot of those matters in my letter. I would like to talk about a couple other items that weren't address understand the letter that are I think maybe something as uppermost in people's mind about what are we really here for, what are the consequences. If y'all deny the site plan extension, what does that mean? And I think part of the problem here has been just a total lack of looking at the settlement agreement, looking at the special exceptions ordinance and looking at the 1993 regulations to see what they do, see what the consequences are, see what's supposed to be done and actually applying them to the situation. whalen said that, well, the consequences is we get to submit the same site plan and city staff has already said if we approved the site plan before we have to approve it again. That's not true and it's not true for several reasons because you've got to look at the law. And there's a grandfathering argument which I'm not going to bring to you now because it's not something you have to decide whether this project is grandfathered. City staff has made a decision and I'm disappointed in it, but there is some questionable gray area a they take the side of let's make that you are we take the side of grandfathering rather than challenging it. But assuming that the expiration of the permit does not mean the expiration of the project, which I think it does, but assuming city staff is right, that doesn't mean expiration of project. They still have to submit a new site plan that meets 1993 regulations under current conditions. Not under conditions of 2005, not under conditions of 1998 or earlier. And so they have to show if they submit it that not only does it meet 1993 code, but in doing so it's the same project. And we certainly have questions as to whether that can be done. Let me give you an example under the 1993 regulations. The site plan has to have a , a tract impact analysis. This is way overdue. I heard in zapalac say the last one was done in 1991. We thought it 1988 and updated in 1991, but it's long overdue. One of the things in the 1993 regs is my understanding the site plan has to be denied if traffic generated by the project combined with existing traffic exceeds desirable levels. It's hard to argue that that intersection and the traffic on it are desirable levels at this point. My understanding that the intersection is a d and f intersection depending on what facet of it you are looking at and what time of day. Certainly adding traffic creates more problems, and my expectation would be if the 1993 law were applied, what the applicant would have to do would be to scale back the intensity of that project to lessen the impact on traffic. Because it is adding to a traffic -- to a traffic situation where it's already beyond desirable levels. Now, if you go back and look at the 2005 site plan, I have questions whether that met the 1993 regulations at the time. And I'd like to show, if I can use the audiovisual equipment and try to figure it out. Is this working? Turn it off? Hello? Hello? This is a memo by george zapalac -- does that show --

back in 1991 looking at traffic at this site. And he says access-right here, access is the primary traffic issue. And he says access to 360 to the tract requires more than 15 feet of fill. -- 14 Feet of fill. And he says an environmental variance would be required because the 1993 regs say you can only get four feet of fill on that site. And he said if no variance, recommend reducing intensity of land use. Now, there's no record I've seen anywhere of any variance granted for this site, so essentially we've got a site plan that's already approved that has not met the -- even if 1993 regulations and was granted even though the crucial ingress and egress aspects of that site plan conflict with 1993 law. So let's flash forward and look at the -- the 1993 code allows an extension by zap or the council with only certain predicates are there. First, zap would have made certain determinations. That's the language in the 1993 code. They have to make determinations. You can look at the record of the zap proceedings up and down, there's no indication, there no indication they focused on any of the issues that they are required to focus at. Instead, as was mentioned before, staff presented them with some kind of conclusionary findings but there's really no facts there. Can I get that on the screen? If you look at -- well, it's not very clear, but at the bottom, the kind of statement that was made to zap by the staff was this application complies with requirements of this title. As part of the settlement agreement ordinance, and then it just kind of disappears. And then all the other statements are just conclusionary. There's not really any facts presented to zap and there's no evidence in the record they ever even considered this or they certainly didn't incorporate it into their decision. The other predicate that has to have been met is that the one-year extension had to have been granted by the director according to the 1993 code. This was not done. The director did not grant a one-year extension. 5 month extension. She has no authority, no reason to do that. If you look at her letter, she made no findings or determinations that are required in the code. zapalac claims that there was some sort of consideration of transportation issues, and one of the questions that you've probably already aware there has to be somensideration and whether there's an addendum that needed to be done. But if you look at the documentation from that request, if you look at the completeness review, for example, it was just linda courtney, she determined it was complete on the same day it was submitted. It was like a 24-hour turn-around. And none of the other reviewers, including transportation, even took part in that. I mean did it require an addendum or not. That decision apparently made without any consideration by transportation and I couldn't find any documentation or anybody else that showed this was done. So let's look at the criteria that has to be met under these circumstances. Again, I'm referring to the 1993 code and I don't think substantial difference between the current code on that, but here's the criteria. First of all, let's go to the t.i.a. There's one, two, three criteria -- four criteria. Number 3 -- I'm sorry, number was required to be submitted with the application for the original site plan, one was required they let them get away with the 1991 site t.i.a. But it says the assumptions and conclusions of that t.i.a. Are valid for the revised site plan. Well, how can conclusions and assumptions that were made back in 1991 be valid in the year 2009, particularly in a highway and intersection that's completely overbuilt, completely nonfunctional, functioning at a d and f level? If all the assumptions and conclusions -- if this was the original conclusion in 1991 this was going to be a failed intersection, why was the site plan approved at that point? It doesn't make any sense all this is consistent with what was expected in 1991. If it was expected, they weren't doing their job in 1991. Must make one of the following findings. The standards -- the site plan substantially meets the standard that apply to new applications, plural. This is generically all applications whether they meet what was -- new applications would have to comply with. This is an anti-

grandfathering clause. They don't meet standard for new applications. It's theoretically they may meet standards applicable through the settlement agreement but not to new applications in general. B, good faith expectation by the applicant that the development shown on the site plan would be constructed. Now, it's hard for me to believe there is good faith expectation when this property has been sitting around since 1992, and in 2005 when they got their site plan approved for a three-year period, the very first thing they did, they applied for a ten-year extension. They did not have a good expectation when they got their three-year extension they would be building up that site plan and the proof is they immediately asked for a ten-year extension. the champion tract, they have tracts that have been sitting there undeveloped for an equally long period of time. These people do not develop, they don't have expectation of developing in any kind of prompt way. They sit on their property for long periods of time. And they are just trying to collect development entitlements that at some point they hope they can cash in to get the best price for. I lost my place here. So the criteria that you have to find have not been met here. It's been admitted there's no structure ever built there pursuant to the site plan. The assumption and conclusions for the t.i.a. can't be valid. And there certainly is not really cause. The only good cause is it's convenient for them, it's more profitable to them, they don't like the current economic situation, they don't like in the next three years there's construction project, that's not good cause. An economic downturn were good cause for extensions, then why even have deadlines? There's always going to be economic down turns. And I would encourage to you take advantage of this situation to force this applicant, who has been consistently trying to evade compliance with current regulations, force them to come back to the table, submit a new application and -- and hold them to compliance at least to the 1993 regulations, if not to current -- current regulations. So in summary, 2222 cona asks y'all to deny the request for site plan extension. Thank you very much.

Mayor Leffingwell: Thank you. The next speaker is arthur McLANE. arthur McLane.

[Inaudible]

Mayor Leffingwell: You may certainly do that, torgenson already has the maximum 15 minutes donated to him. And m lassiter is signed up donating time. He's maxed out. Okay. So we'll go to peter torgenson and jeff jack is here, julia martin is here. Edwin king. Edwin king is here. Sheryl torgenson 1 here. torgenson, you have 15 minutes. They are asking to you speak into the mci.

Okay. Is that better? I hope so. mayor, councilmembers --

Mayor Leffingwell: That was your wife asking to you speak into the mci.

My name is peter torgenson, I'm representing 2222 coalition of neighborhood associations. We represent several homeowner associations and neighborhood associations on the 2222 corridor comprised of approximately 3,000 households. We are here today to examine an extension request. It's not about the right of owners to develop their property. We recognize owners have the right to develop their property. Our position is the property owners should develop the properties in compliance with the city of austin development regulations, and we see as our mission to -- to try to encourage every developer to work with the same rules that every other developer is working from. Tonight we are talking

about whether the site plan for this particular development should be extended. We have appealed the decision to give a tension and asking you to uphold our extension and deny any extension whatsoever for the site plan. There are several reasons for doing that, but first I'd like to look a little bit at the entitlements that have been granted to the current site plan. They specifically allow obsolete regulations which are significantly inferior to the current regulations regarding development of properties in particular in the water regulation area, among others. The special entitlements granted to tract 4 roll back land development code to december 8, 1993 in general. However, may more significantly actually is that they explicitly include the watershed -- comprehensive watershed ordinance as an ordinance which does not regulate this property. That ordinance is the -- basically the foundation of modern water regulation in austin. This was an ordinance enacted in 1986, so in effect they are rolling back the regulations to 1980, which was the lake water watershed ordinance. We're talking about applying watershed regulations from 1980 here in 2009. That's virtually 30 years later. We've seen dramatic changes in the way we look at preserving water, environmental health in this city, and this is a property which has currently an entitlement to completely do away with all of that. In essence, they have exceptions back to 1980. That's not just bacteria to 1993 we're talking about way earlier than that. In fact, a reason we're concerned about this, tract 4 is in the bull creek watershed and part of the city of austin water supply. However, tract 4 is not merely in the watershed, it is immediately adjacent to bull creek. The eastern boundary of this property is bull creek. And it's a sensitive tract. We're very concerned and we are always very concerned about water and the effect of development on water and this is a prime example of why we should have the most current regulations being applied to this project. Now, they currently have the right to this regulatory level because of the comprehensive -- because of the settlement agreement with the city. If there is any chance that we could make the property come under current regulations, we want to explore that opportunity definitely. Let me bring up a few examples of in particular what we're talking about here. On page 1 of the site plan and the waivers and variances section there's a note that starts off, a waiver from storm water detention requirements is granted for this project, and it goes on to name the date and such as that. The current ldc requirement for storm water handling says they will handle the peak water flow right for the two-year storm, the ten-year and the 25 and 100-year storm. This project is completing exempt from any water detention whatsoever, according to that note on page 1 of the site plan. And this project contains 5 acres of impervious cover, and we're talking about handling a storm event with that kind of impervious cover. That's a significant amount of water on a site that's right next to the lake. That's just one of the current entitlements. A second entitlement that's fairly significant and is mentioned specifically in the settlement agreement is there's a substantial rock outcropping as the feature is described on the site. A provision of the settlement agreement provides this geologic feature may be granted to the level of the surrounding terrain. This is not just a little hill. This is a structure that's on the order of 500 feet wide. Under the current ldc, this action requires significant variance and this kind of variance I believe is not the norm to be granted. A third item that was zapalac involves the hill country roadway ordinance, there's provision number of a 100-foot setback from the roadway for hill country roadway development. This has been reduced in the settlement agreement to 25 feet. That's a major reduction in one of the primary measures that is there specifically to preserve the hill country character on hill country roadways. Both 2222 and loop 360 are hill country roadways. The applicant said tonight they had to have a reduction of 25 feet because there's some flood plain on the back of the property. I would

suggest that just because the owner has a piece of property that is not a pristine perfect piece of property that is correct doesn't mean that the provisions of the hill country roadway should be set aside because of that situation, which is what happens with property. Property in this territory has slopes, it has critical water quality features and it has features like that which are just part of the property. The city council is not obligated to actively support extensions of these entitlements into the future. Things were discussed considerably before including the txdot -- the txdot project. There's no question the roadway is running at capacity completely already. I've had some serious difficulty getting here this evening. Largely due to the construction project and not to the overall traffic level, but it's usually a problem getting down here because of the normal day to day traffic level without a construction project. And the intersection is definitely in the service level d or f during rush-hour traffic right now. The right of the owner to develop the tract is not an issue here. The only issue is whether the site plan should be extended. We have argued that it should not be extended. The champions have maintained the if site plan expires, they have the right to file the same site and are entitled to have it approved without any discussion. The contention they have this prophet you'll right has not been tested and it won't be as long as extensions continue to be granted for this project. If they have to come in and produce a new site plan and get it reviewed, it's possible that some changes would have to be made that will improve the project. I believe that's a good thing. I don't know if they apply because of the settlement agreement or whether they would be applied to the project, but that would definitely be a question I would be interested in knowing the answer to. [One moment, please, for change in captioners]

I want to take a moment, if you see the champions, they are not developers. Miss champion who is the youngest would not allow me to reveal her age with you has taught choir for several decades here. That is why we sought phasing originally. It isn't because they didn't know how to develop the land or they were just idling standing by, in fact, they sold spellman the tract across the way with apartment tons and an office on it and it was sold to developers who have not been able to go build if because of the current economic situation several years ago. This is not a case of somebody not being able to develop the property base they don't know how, they're not developers, they have had it on the market, they have actively marketed the property and they have been able to sell it. I want to put this up to address your question, council member riley. You can see it is in an I-shape, which the one piece is a little bit closer near 2222 and you see the dash lines, which are the flood plain, which is why it is up quite a bit and a sedimentation pond in the back of that building. That is the only reason. That is all. I just wanted you to see that. It is in the back up in your package. So I want to emphasize more than anything else that the champions are not developers, they're weary of this process, frankly. I don't blame them. They have complied when they thought they were getting an appropriate resolution of this matter in '96. They entered into an agreement with the city, an ordinance was passed which set forth that agreement and they thought they were done. And unfortunately, 13 years later, we're here again. Not seeking more, seeking what the city and what they had agreed upon, and they'll continue to comply with their agreement with the city they would ask tonight, since they're not developers and one thing that I can't help but notice rockwell failed to mention is they have been paying property taxes ever since the city began assessing prompt taxes, they've been doing so for over 100 years, so this isn't, again, a matter of developers avoiding or skirting responsibilities, they're prepared to comply with what the city passed in the form of ordinance and many, many others outside the city west 6 this track since you're on the

council, council member spelman have come and done without any objection, not paying taxes yet using our infrastructure. Thank you very much. rockwell, you have three minutes also.

The statement that the champions are not developers, of course is very much true, and that, again, goes to one of the criteria that you guys have to decide whether there was a good faith expectation in a they would will out this project during the initial three-year period and I think he just made my point that no, they're not really prepared to develop it and they aren't developers, they're sitting on it, they're speculators. As far as property taxes, i would urge you, if you think that's important to look at the amount of property taxes that are being paid on these properties, I think you would find this sort of fits the criteria that brian rogers talked about is a commercially-zoned property that is grossly under valued and under taxed. One other comment I would like to make about traffic flows. There has been some discussion about the number of trips perp and how it fits in with the original cia. Because of the unusual arrangement configuration if someone is coming from the south, out 60, to go there, not only will they use 360 in the entrance ramp to go there but if they need to get out and go back they may have to backtrack or go over or vice-versa if they're coming west on 2222 they will have to do some backtracking to get into the only right hand turn in and right hand turn out so in some sense the congestion level from this is actually double what you would, maybe not exactly double but approaching double what you would expect from a normal trip count, from a project that is just because of the unusual configuration and again, opposed to special demands on an already-congested intersection. Thank you.

Thank you. Council member shade. I would like to -- i want to say this has obviously been a very complicated case and there has been a lot to digest here. And I appreciate people's patience in trying to explain whats that been a pretty confusing case and years and years of this but I want to make a motion to deny both appeals and adopt the staff findings and go with the staff's recommendation of eight years. And I want to make a comment to torgenson's comment about, you know, what is the city's -- you know what is it to the city. If, you know, if we didn't honor what I believe was the original idea here, what is the -- what do we lose. I mean, you have citizens here who have just been referred to as speculators who have owned the property for 100 years. There is some sense of right here, so sometimes decisions, and why I'm supporting this motion is not just because of there's not worry for the city. I mean there's some evidence or some responsibility on our part 20 also try to do what's right and thing has been a lot of confusion on this. These are not speculators. I think it is very difficult to talk about the traffic when, in fact, this is the traffic that's been created since they've owned this property. I mean, again, this is a very difficult case but I feel very comfortable in an unusual case denying both of these requests and adopting the staff's findings, which I feel like they've spent a ton of time, thank you in bringing us up to speed on this. This was a lot to sort through, and again adopt the staff recommendation of eight years.

Motion by council member shade to deny both appeals. Second by mayor pro tem martinez. Any discussion? Council member spelman.

I would like to ask whalen a question if i could.

I can answer it for you, if you like.

You are in a better position to answer the question than I am to do it myself so let me ask you. There has been a lot of discussion as to what the actual cost to champion assets limited and to the city would be if we were to make you file a site plan again now or forwarded eight years in the future. What kind of costs from your point of view would will be?

I can't speak to the staff cost but there is notice, so notification would need to go out again, staff time to review it, they can speak to that more than we can. We would have the engineering costs to go back. Yes, it is already drawn, but they will have to go back and pull it back together and refile and legal costs. I mean, as you can see, cona is well represented and at every juncture, every time, and you have experienced it more than anybody else on the dais, we have had opposition to developing at the cross section of two major intersections in our city, well within the city limits and within the city tax base. So that is a cost that cannot be predicted, frankly, because of the opposition.

The site plan, if this had been -- this site plan, can it be administratively approved or must it be approved by the zoning and planning commission?

It has to be approved by the commission.

Because it is located on hill country road --

yes.

So you've automatically got that.

Yes, I have that opportunity to once again be before you on an appeal from the site plan.

I know you're very used to it, michael. What would be the approximate cost 6 updating the traffic impact analysis that was last done apparently in 1991?

I don't know the answer to that. I mean, I don't know the answer to that. I'm sure several thousands of dollars. zapalac is a former traffic engineers? I forget your background. I think jerry has even written a traffic memo on this case in f you look carefully. I don't know the answer to that. It is again, it is a fair question, yet another impediment to development of the tract. And I don't know the amount. I don't know the amount, though. Thanks.

On the issue of cost -- council member shade.

Shade: thank you. You're talking about the economic coast and what I'm most moved by and you should address it, the champion sisters or their daughter will address it, but you know, the emotional cost. For these neighbors that are coming and for this family that is going through, I mean, what is that?

I mean, can you quantify that at all?

I'm not going to -- I can't speak to their health and frailty, I think it sobbous. I don't think we're heighting anything. This has not been something they enjoy doing. Feel compelled to be here. She drives down every time from dallas, her daughter drives her down from dallas, and I don't know if any of them want to speak to that. Do you want to speak to that, miss champion?

It's okay. I mean I just drk --

are you asking the question of -- who are you asking the question of? I guess you are asking the question of miss champion. Okay. mayor and council members, I'm josi champion. You're asking the emotional cost of having the site plan revisited. It surely has been an emotional drain on us. We have done everything that we -- first of all, we recognize that the land was going to be very valuable and that has happened. And we have hired the best professionals that this city has to offer and you're talking spelman's answer would be hundreds of thousands we have spent trying to develop the land, but everything that austin has that's good we have tried to incorporate and we do hope that you will hear us, we've tried and tried, and we would appreciate your vote for us tonight. Thank you.

Thank you, miss champion. It is good to see you again. Any more discussion or questions? Council member morrison. I want to make a comment. While I appreciate and respect the passions and emotion and efforts that the champions as well as the neighbors neighbors have brought to this over the years and I remember watching on channel 6 years ago when some of this was going on and it certainly wasn't even the first time it was going on. I know it has been a long haul for everyone. I can what is really, from my -- I think what is really, from my perspective, important about tonight is this is not a discretionary decision about what is right and wrong, what is the right thing for the future of austin or the right thing for the family or whatever, we are bound to look to the code to look to the criteria for extending site plans. And what is very, very important to me in making this decision is that we need to determine, narrower than expected to vote to approve, this the a -- in order to vote to approve, this the assumptions are still valid. While I appreciate the comments from staff on that, from my perspective most of that focused on their perspective they thought it wouldn't make any difference one way or another. But really this says the assumptions need to be valid and the, you know, assumptions in the 1991 site plan and the -- excuse me, the tia and what we were looking at the traffic there and the addition of 5,600 trips to the '91 traffic verses the addition of 6,500 trips to the 2005 or 2009 traffic, that's very, very different. So because of that, I'm not going to be able to support the motion. council member spelman. I agree with what you said. One other thing you may have left out, that is if we accept this, if we continue this site plan for another eight years or five years or any substantial length of time beyond the point where it's, beyond this point, we will not be able to respond to any changing conditions in the future. So if there is more traffic five years from now or eight years from now, it will not have any effect on the site plan, it will be valid five to eight years in the opportunity and I think there is substantial change over the last 18 years. I finally found one of the numbers to my famous back of the envelope calculation, we have twice as much traffic on the arterial streets of texas today than in 1991. I think more than twice as much traffic on 2222 in this area. I know there is more than twice as much traffic on 360 in this area because I've driven it and it seems the traffic impact analysis from 1991 couldn't

possibly be an accurate reflection what have effect this development will have on traffic conditions going into the future and certainly not eight years in the future starting today. So I'm going to be voting against this motion, as well.

Well, I will just say that we've all been briefed on the legal aspects of this case, and if I thought there were any chance what so ever that current development standards with regard to environmental criteria could be enforced in a new site plan I would not support an extension. I do not believe that is the case. I believe that the grandfathered rights are legally sound that has been explained to us and therefore I will support the motion. Any further comment? Council member cole. I do remember the history of this case, and it is very painful and drawn out, but I basically concur with mayor leffingwell's comments and i will also be supporting the motion. council member riley. I would echo the mayor's comments on this, but i would also note that if the neighborhood's arguments are correct, then the extension before us, the zoning and planning commission action and the neighborhood does have a remedy for relief in court and that same remedy exists regardless of our action today and I'm afraid that's the business that we're in. That we'll be -- that that will still be there. Really, regardless of what we do tonight that remedy would still be available so I'll be supporting the motion.

Anything further? All in favor of the motion to deny both appeal which is automatically closes the public hearing, say aye. All opposed? Passes on the motion, a motion passes on a vote 65-2 with council member spelman and council member morrison voting no. And I believe, city clerk that those are all of the items on our agenda, therefore without objection, we stand adjourned.

## **End of Council Session Closed Caption Log**